78-857

No.

Supreme Court, U. S.
FILED
NOV 27 1978
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1978

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

JOHN S. IRVING
General Counsel

JOHN E. HIGGINS, JR.
Deputy General Counsel

ROBERT E. ALLEN
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

LINDA SHER
Assistant General Counsel
National Labor Relations Board
Washington, D.C. 20570

WADE H. MCCREE, JR.
Solicitor General

STEPHEN M. SHAPIRO
Assistant to the Solicitor General
Department of Justice
Washington, D.C. 20530

INDEX

	Page
Opinions below	1
Jurisdiction	2
Question presented	2
Statute involved	2
Statement	2
Reasons for granting the petition	16
Conclusion	27
Appendix A	1a
Appendix B	43a
Appendix C	45a
Appendix D	63a
Appendix E	80a

CITATIONS

Cases:

Adelphi University, 195 N.L.R.B. 639	14, 20, 21, 25, 26
American Broadcasting Companies v. *Writers Guild of America*, No. 76-1121 (June 21, 1978)	19
Boston University, 228 N.L.R.B. 1008, enforced, 575 F. 2d 301, petition for cert. pending, No. 78-67	26
C. W. Post Center of Long Island University, 189 N.L.R.B. 904	14
College of Pharmaceutical Services, 197 N.L.R.B. 959	26
Cornell University, 183 N.L.R.B. 329	25

Cases—Continued — Page

Fairleigh Dickinson University, 205 N.L.R.B. 673 26
Fibreboard Corporation v. *NLRB*, 379 U.S. 203 24
Fordham University Law School, 193 N.L.R.B. 134 ..... 14, 26
General Dynamics Corp., 213 N.L.R.B. 851 21
International Ladies' Garment Workers' Union v. *NLRB*, 339 F. 2d 116 17
International Union of United Brewery v. *NLRB (Gulf Bottlers, Inc.)*, 298 F. 2d 297, cert. denied, 369 U.S. 843 17
Kendall College, 228 N.L.R.B. 1083 26
Loretto Heights College, 205 N.L.R.B. 1134 26
Marine Engineers v. *Interlake Steamship Co.*, 370 U.S. 173 19
NLRB v. *Bell Aerospace Co.*, 416 U.S. 267 (1974) 18, 22
NLRB v. *Wentworth Institutes*, 515 F. 2d 550 17
New York University, 205 N.L.R.B. 4 ..... 14, 20, 25, 26
Northeastern University, 218 N.L.R.B. 247 14
Packard Motor Car Co. v. *NLRB*, 330 U.S. 485 17
Palace Laundry Dry Cleaning, 75 N.L.R.B. 320 18
Retail Clerks International Ass'n v. *NLRB*, 366 F. 2d 642, cert. denied, 386 U.S. 1017 18

Cases—Continued — Page

Stop & Shop Companies, Inc. v. *NLRB*, 548 F. 2d 17 17
Syracuse University Law School, 204 N.L.R.B. 641 26
University of Miami, 213 N.L.R.B. 634 14
University of San Francisco Law School, 207 N.L.R.B. 12 26
Wentworth Institute, 210 N.L.R.B. 345, enforced, 515 F. 2d 550 26
Westinghouse Electric Corp. v. *NLRB*, 424 F. 2d 1151, cert. denied, 400 U.S. 831 19

Statute:

National Labor Relations Act, 29 U.S.C. 151 *et seq.*:
Section 2(3), 29 U.S.C. 152(3) 17, 80a
Section 2(11), 29 U.S.C. 152(11) 17, 80a
Section 2(12), 29 U.S.C. 152(12) 15, 18, 23, 81a
Section 8(a)(1), 29 U.S.C. 158(a)(1) 14, 81a
Section 8(a)(5), 29 U.S.C. 158(a)(5) 14, 81a
Section 9(b)(1), 29 U.S.C. 159(b)(1) 19

Miscellaneous:

Amendments to the National Labor Relations Act: Hearings on H.R. 8, etc. Before the House Comm. on Education and Labor, 80th Cong., 1st Sess. (1947) 19
J. Baldridge, *Power and Conflict in the University* (Wiley 1971) 21

Miscellaneous—Continued Page

H.R. Rep. No. 245, 80th Cong., 1st Sess. (1947) 17

Labor Relations Program: Hearings on S. 55 & S.J. Res. 22 Before Senate Comm. on Labor and Public Welfare, 80th Cong., 1st Sess. (1947) 19

S. Rep. No. 705, 80th Cong., 1st Sess. (1947) 17

W. Grant and C. Lind, 1977-1978, *Digest of Education Statistics* (U.S. Department of Health, Education and Welfare 1978) 25

Finkin, *The Supervisory Status of Professional Employees*, 45 Fordham L. Rev. 805 (1947) 19, 20

In the Supreme Court of the United States

OCTOBER TERM, 1978

No.

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

The Solicitor General, on behalf of the National Labor Relations Board, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A, *infra*, 1a-42a) is reported at 582 F.2d 686. The Board's decision and order (Pet. App. C, *infra*, 45a-62a) are reported at 231 N.L.R.B. No. 98. Its decision and direction of election in the underlying rep-

resentation proceeding (Pet. App. D, *infra*, 63a-79a) are reported at 221 N.L.R.B. 1053.

JURISDICTION

The judgment of the court of appeals (Pet. App. B, *infra*, 43a-44a) was entered on July 31, 1978. On October 18, 1978, Mr. Justice Marshall extended the time for filing a petition for a writ of certiorari to November 28, 1978. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether faculty members who participate in decision-making regarding the hiring, compensation, and promotion of the faculty and the academic standards of the university are managerial or supervisory employees excluded from the protections of the National Labor Relations Act.

STATUTE INVOLVED

The relevant statutory provisions are set forth in App. E, *infra*, 80a-81a.

STATEMENT

1. In 1974, the Yeshiva University Faculty Association (the Union) filed a representation petition with the Board seeking certification as the bargaining agent of the full-time faculty members of most of the schools at Yeshiva University (the University) (App.

D, *infra*, 65a-66a).[1] A representation hearing was held at which it was established that the University is a private educational institution chartered by the State of New York, with facilities located on four campuses in New York City (App. D, *infra*, 64a). There are approximately 1,200 full-time and 340 part-time undergraduates, as well as 336 full-time and 380 part-time graduate students, enrolled in the schools of the University involved in this proceeding (App. A, *infra*, 5a-6a).[2] The University has approximately 209 full-time and 150 part-time faculty members (U. Ex. 100-101, 110-111, 115-116, 118-119, 123-124, 135, 137, 139-140, 144-145).[3]

---

[1] The Union did not seek to represent the faculty of the Albert Einstein College of Medicine, the Sue Golding Graduate School of Medical Sciences, the Yeshiva High School, or any of the theological programs affiliated with the University (App. D, *infra*, 65a-66a). (At the time of the Union's petition, Yeshiva University did not have a law school.)

[2] The schools involved are: Yeshiva College ("Yeshiva"), Stern College for Women ("Stern"), Teachers Institute for Women ("Teachers"), the Erna Michael College of Hebraic Studies ("Erna Michael"), the James Striar School of General Jewish Studies ("James Striar"), the Yeshiva Program, the Bernard Revel Graduate School ("Revel"), the Wurzweiler School of Social Work ("Wurzweiler"), the Ferkhauf Graduate School of Humanities and Social Sciences ("Ferkauf"), and the Belfer Graduate School of Science ("Belfer") (App. D, *infra*, 64a n.1). These schools are referred to collectively as "the University" unless otherwise specified.

[3] "U. Ex." refers to the University's exhibits in the representation proceeding; "Tr." refers to the transcript in that proceeding; and "A." refers to the joint appendix filed in the court of appeals.

The ultimate policy and decision-making body at the University is the Board of Trustees, on which no faculty members sit (A. 63, 1310, 1498). The University President, who is the chief executive officer of the University, is a member of the Board of Trustees (A. 63, 357, 1498). The next stratum of the University administration consists of the Vice-Presidents for Academic Affairs, Business Affairs, and Student Affairs (A. 36-37, 63, 184-185). Administrative officers with more limited areas of responsibility include the Registrar, Bursar, and Director of Admissions (A. 1519). The chief administrative officer of each of the schools is the Dean, who serves as "the liaison officer between the programatic activities of the school and other schools [within the University] and the central administration" (A. 141), and reports to the academic Vice-President and President (Tr. 155).

The Executive Council of the University, whose members are appointed by the President with the concurrence of the Board of Trustees, consists of the deans and directors of the various schools, and the directors of various administrative divisions (A. 66). It normally meets twice a month and has within its purview "all of the academic and administrative problems of the university." It is, however, "primarily a recommending body," recommending policies and procedures "to the president who then issues directives." (A. 67.)

The administration also has various committees. For example, the budget committee, which is ap-

pointed by the President and at the time of the Board hearing consisted of the Vice-President for Business Affairs, the Registrar, and the Dean of Erna Michael, formulates the budget for each component school and the institution as a whole (A. 190; Tr. 905-906). Financial guidelines of university-wide application—such as freezes on hiring of non-academic personnel and on faculty salaries and budgetary restrictions that were imposed in the early 1970's due to a University fiscal crisis—are formulated by the budget committee, submitted to the Executive Council and then to the President for final approval (A. 190-203; Tr. 913-918). The budget for individual schools (or departments in the larger schools) is drafted initially by the dean of the school or the department chairman who, after meetings with the budget committee, submits the draft to the Vice-President for Business Affairs, who reviews it with the budget committee and then submits it to the President for approval (Tr. 604, 912).

Policies and procedures of university-wide application are set forth in the Faculty Handbook (A. 1491-1509). When changes in the Handbook are to be made, faculty committees at the various schools are "asked to make comments" to the appropriate University committee. Final determination of the Handbook's contents is made by the Executive Council, with the approval of the President and the Board of Trustees. (A. 181-182.) University-wide policies ap-

plicable to the full-time faculty[4] at all schools govern the required teaching load, and are determined by the Executive Council (A. 41). There also is a centrally determined faculty salary scale,[5] and university-wide tenure, sabbatical, and mandatory retirement policies (A. 99, 102, 104, 1501-1506). The health and disability plans, the group life insurance plan, and the retirement income plan which the University offers to faculty members are university-wide in application (A. 1507-1508).

Faculty input on matters of university-wide policy is secured through the academic councils—the Council of Undergraduate Schools and the Council of Graduate Schools—which advise the President. These bodies consist of student and faculty representatives elected from their constituent divisions, and appointed University officers (A. 68-70). Their mission is "to enable * * * faculty and students and university administrators * * * to be concerned with the problems that they all face together * * * [and which] arise anywhere in the university" (A. 71).

---

[4] All references are to the full-time faculty unless otherwise noted. Full-time faculty members are required to devote their time exclusively to the University. Permission for outside work can be given only by the President after approval of the dean is obtained. (A. 40-41) .

[5] In schools with a pre-set salary scale, each year faculty members advance a step along the scale based upon rank and years of service, receiving whatever increase the scale allows (A. 210). For schools that have no prescribed scale and for faculty members who are at the top of the scale, the budget committee determines the appropriate raise in salary, if any (A. 211-214).

There is also a "university-wide grievance committee"—the University Faculty Review Committee—which consists of eight tenured faculty members elected from the various schools. Its function is to review grievances pertaining to promotion (A. 76); its authority is limited to making recommendations to the dean or to the President (A. 1522-1524).

The University President appoints all full-time teaching personnel, receiving recommendations from the deans and the Vice-Presidents for Academic Affairs and Business Affairs. Dr. Joshua Fishman, Vice-President for Academic Affairs, explained the process as follows (A. 132-133):

> The deans are in the pivotal position in connection with hiring. The programs with which they are in touch express needs for new faculty to them. The university administration lets them know about the budgetary possibilities. The deans therefore, together with each other and with the people in the programs try to translate those possibilities into what should be done.
>
> Some of it could be used for full time faculty or for part time faculty or for other acquisitions.
>
> At any rate, this kind of discussion goes back and forth and normally, depending on the size of a school, some schools are really so small that you would consider them departments, and, therefore, the dean is in touch with the whole faculty and, therefore, he doesn't need anyone else to recommend this to him. But in a larger school it would be the chairman who mostly works with the dean and, therefore, the program faculty of that department or the various departments involved in

> the program that are communicating with the chairman, he communicates with the dean.[6]
>
> The dean is in touch with other deans.
>
> In other words, it's a pooling of information which is fed to the dean and which is then fed to me and to Dr. Sokol [Vice-President for Business Affairs] and so forth, to the president.

Dr. Sokol, Vice-President for Business Affairs, stated that his "involvement relates to the staffing of individual schools with regard to the fiscal consequences of appointments and * * * expanding or contracting the number or the level of the faculty involved" (A. 187). He added that, unless overruled by the President, he had "an effective veto" over salary recommendations which were inconsistent with University policy (A. 216).[7]

---

[6] Belfer, Ferkauf, Revel and James Striar are organized into departments and their faculties elect department chairmen (A. 250, 712, 822-823, 1108, 1177, 1235). Yeshiva's faculty is broken down into divisions, and each division elects a division chairman. In addition, the most senior professor in each academic subject area at Yeshiva and Erna Michael represents the other professors in that area (A. 404, 440, 449). The department chairmen at Stern are recommended by the dean for appointment by the President, but they act on behalf of the faculty (A. 311). There are no department chairmen at Wurzweiler, Teachers, or the Yeshiva Program, where the faculty acts as a body (A. 722, 916).

[7] However, Dr. Sokol has never had to exercise his veto power because, "through the process of discussion and cooperation," salary requests have changed significantly from the time they were originally submitted to him and therefore "there was a general consensus and agreement that the appointment could be consummated" (A. 216).

Recommendations for promotions proceed through a similar process. Vice-President Fishman explained that "[a]ll recommendations for promotions finally wind up on my desk. They start out normally in the faculty member's own department where some consensus is reached that he should be recommended for promotion. * * * Normally that then is communicated to the promotion committee of the school, and if that recommendation is * * * acceptable to them, they so recommend to the dean who normally himself has to * * * approve that recommendation" (A. 88). The recommendation then goes to Vice-President Fishman, who evaluates it on behalf of the President in terms both of the school's requirements for promotion and his independent appraisal of the quality of the candidate's scholarship (A. 89-92). Without Fishman's approval the candidate could not be promoted (A. 92). Fishman added that the deans frequently discuss potential recommendations with him informally before they are formally submitted "so that they won't run into last minute questions, and so that they don't have to be turned down" (A. 90).[8]

---

[8] Faculty input into promotion decisions varies from school to school. At Stern, for example, an elected faculty Promotions Committee (which includes some department chairmen) solicits recommendations from the candidates' chairmen who, in turn, often consult the department's faculty (A. 328-329, 358, 362-363). The Committee then submits a recommendation to the administration (A. 330). At Yeshiva, an advisory council of the elected division chairmen makes recommendations concerning promotions to the President (A. 447, 442-443). Faculty members desiring promotions submit a written request to the council through their division chairman,

Full-time faculty members at the University are entitled to be considered for tenure after serving a certain number of years (A. 99). Vice-President Fishman testified that, at the time when tenure is considered (A. 99):

> The deans will first call and come and we will discuss the question, and it will normally be decided in terms of the financial capacity of the university to carry another tenured commitment, and the impact on that department * * * .

He explained that, in addition to the particular school's concern for intra-departmental balance, he had to consider "the school wide balance of tenured versus untenured faculty" and "the whole fiscal side of * * * university planning" (A. 100).[9] Fishman also stated that, while he attempts to reach agreement with the

---

who, in turn, "by good democratic procedures [tries] to convince the other members * * * that they should vote for such a promotion" (A. 443).

[9] Input from the faculty regarding tenure decisions varies among the schools. At Ferkauf, department members evaluate candidates for tenure and communicate their written findings through the chairman to the dean, who convenes a council of all tenured faculty members (A. 1185-1186). A committee of that council screens the department's evaluations and makes a recommendation to the full council, which votes by secret ballot and transmits its recommendation to the dean (A. 1189-1190). Similarly, at Belfer, tenure recommendations are made by the entire department and are referred to the dean for ultimate decision by the President (A. 838-839). At Stern, the dean makes his own recommendation but also solicits one from the candidate's department chairman; both recommendations are sent to the President, who makes an independent evaluation and decision (A. 358-359).

deans in making tenure decisions and has been able to do so, in the absence of agreement he has final authority to deny tenure (*ibid.*).

Tuition levels are determined through a similar process. Vice-President Sokol, in charge of Business Affairs, testified that (Tr. 934-935):

> Periodically at my direction or at his own initiative, the University director of finances, analyzes the tuition structure and compares it with those tuition structures of other universities and meets with the dean of the school and submits a joint recommendation as to whether the charge should be maintained or revised in some way.
>
> * * * *
>
> That recommendation is made to me. I in turn submit that recommendation to the university executive council which either recommends it, modifies it and then it is submitted to the president for his approval with my recommendation.

Faculty input can influence the tuition recommendation. For example, the objection of a department chairman that a tuition increase would cause a decline in enrollment due to "the competitive nature of the program" was forwarded by the dean to Vice-President Sokol, who decided against the tuition increase (A. 829-830). Faculty opinion as to the proper amount of a proposed tuition increase also has influenced the dean's recommendation to Sokol (A. 932).

The various schools and divisions at the University are given wide latitude to determine their own curriculum, grading system, admissions and matriculation standards, and course schedules (A. 280-294,

297, 299-300, 413, 511, 540). At several schools the faculty meets periodically to review the curriculum, recommend changes to the dean, and allocate course offerings (A. 280-281, 421-422, 628-630, 632, 553-554, 825, 930). Budgetary control, however, is centralized in the University administration (A. 190-217, 1024-1025). Vice-President Fishman noted that "budgetarilly [the dean] doesn't have the same significant role as he would programatically" (A. 141; Tr. 757). Decisions about the academic load a student may carry are determined jointly by the school and the Registrar (A. 1160).

Faculty members in each school meet formally and informally to discuss and pass resolutions on matters of professional and institutional concern (A. 266-268, 414-418, 541-542, 545-546, 665-666, 810-811). At Stern, Yeshiva, Belfer, and Ferkauf, the faculty meets four times each year pursuant to written bylaws and/or a constitution approved by the President (A. 268, 489-490, 806-807, 1143-1144). At other schools, the faculty meets when convened by the dean or director. Faculty meetings generally are chaired by the dean or director (A. 415, 546).

Most schools have faculty and faculty-student committees concerned with curriculum, promotions, admissions, and grading practices (A. 80, 306-308, 420, 428, 438-439).[10] Faculty welfare committees at most

[10] No one contended before the Board or the court of appeals that the faculty has managerial responsibility for matters of University administration such as procurement of equipment and supplies, building and grounds construction and upkeep, or provision and maintenance of housing and food services.

schools negotiate with the University administration on behalf of the full-time faculty concerning increases in the salary scale and other terms of employment (A. 208-209, 249a, 340, 363-365, 543, 899, 904-905, 1017, 1018-1023, 1236-1239, 1259-1264, 1312-1313). Thus, the University's decision in 1974 to give faculty members at the highest pay level a 5% raise was discussed in advance with the welfare committees (Tr. 929-930).

2. Based on the foregoing facts, the Board found the full-time faculty members at the University to be an appropriate bargaining unit, and directed an election in that unit (App. D, *infra*, 63a-79a).[11] In so doing, the Board rejected the University's contention that "no faculty bargaining unit can be appropriate because all faculty members—by virtue of their group participation in faculty governance—are supervisory or managerial and are, thereby, not employees within the meaning of the Act" (*id.* at 67a). The Board concluded that the "role and authority of the faculty herein with respect to hiring, promotion, salary increases, the granting of tenure, and other areas of governance are not significantly different" from what they were in prior cases in which it had found university faculty

[11] The bargaining unit embraces all full-time faculty members, including department chairmen, but excluding deans, acting deans, directors, and all other administrative, supervisory, or support personnel (App. D, *infra*, 79a).

members to be employees (*id.* at 68a).[12] The Board explained (*ibid.*):

> At Yeshiva University, faculty participation in collegial decision making is on a collective rather than individual basis, it is exercised in the faculty's own interest rather than "in the interest of the employer," and final authority rests with the board of trustees. As in the earlier decisions, we find that the faculty members are professional employees under the Act who are entitled to vote for or against collective-bargaining representation.

The Union won the election "by a substantial margin" and was certified by the Board (App. A, *infra*, 4a). The University refused to bargain, contesting the validity of certification. The Board, upon charges filed by the Union, found that the University had violated Section 8(a)(5) and (1) of the Act, and issued a bargaining order (App. C, *infra*, 45a-60a).

---

[12] See *C. W. Post Center of Long Island University*, 189 N.L.R.B. 904 (1971); *Fordham University Law School*, 193 N.L.R.B. 134 (1971); *Adelphi University*, 195 N.L.R.B. 639 (1972); *New York University*, 205 N.L.R.B. 4; *University of Miami*, 213 N.L.R.B. 634 (1974); *Northeastern University*, 218 N.L.R.B. 247 (1975).

In those cases, the Board found that, although faculty members had a significant voice in determining academic policies and recommending decisions on appointments, promotions, and tenure, they did not have ultimate decision-making authority. Nor did they represent the position of management as opposed to their own position. Finally, the Board noted in these cases that faculty members exercised their authority and influence as a group, and not individually.

3. The court of appeals denied enforcement of the Board's order, concluding that "the full-time faculty has managerial status" (App. A, *infra*, 42a). The court agreed with the Board that the faculty members are professional employees under Section 2(12) of the Act, 29 U.S.C. 152(12), and that their "attributes of professionalism" do not "characterize them as managerial or supervisory" (*id. at* 26a). However, the court concluded (*id.* at 27a):

> [T]he issue as we perceive it in this case involves not simply the professor's exercise of discretion in conducting the courses he is employed to teach. Rather, the issue here is the extensive control of Yeshiva's faculty over what courses are taught in the institution, who teaches them, the number of teaching hours required of the faculty, and the rank, salary, and tenure status of other faculty members. We are further concerned by the crucial role of the full-time faculty in determining other central policies of the institution including, *inter alia*, the curriculum, admissions and graduation requirements, tuition, and in one instance, even the situs of a school. When faculty members have such power—as the board indicates they do at Yeshiva—they no longer are simply exercising individual professional expertise. They are, in effect, substantially and pervasively operating the enterprise.

The court attached no significance to the fact that the faculty members exercised their authority collectively rather than individually, reasoning that they could be "managerial employees" even though they exercised authority as a group (*id.* at 28a-32a). The

court also rejected the Board's contention that the faculty exercised their authority on their own behalf and not that of the University. The Court stated that, "even assuming that the faculty's determinations on personnel, curriculum, admissions, grading, graduation requirements and other policy issues were motivated by the faculty's best interests, the fact that the administration and Board of Trustees of Yeshiva so rarely interfered in the faculty decisions indicates that the interests of the faculty and of the University were almost always coextensive" (App. A, *infra*, 33a). Finally, the court concluded that the existence of the Board of Trustees with ultimate authority did not deprive the faculty members of their managerial or supervisory status, pointing out that business corporations have boards of directors with ultimate authority as well as numerous managerial and supervisory employees (App. A, *infra*, 37a-39a).

REASONS FOR GRANTING THE PETITION

1. The Board's conclusion that the involvement of the faculty in the decision-making process of the university with respect to such matters as the hiring, promotion, and tenure of one another and the adoption of academic standards does not make them supervisors or managers exempt from the Act is a reasonable interpretation of the statute, and thus should have been upheld by the court of appeals. This question is a recurrent one that is important to the administration of the Act. Review by this Court therefore is warranted.

a. In the Taft-Hartley amendments of 1947, Congress expressly excluded supervisors from the coverage of the National Labor Relations Act.[13] Congress excluded supervisors from the Act in response to the decision in *Packard Motor Co.* v. *NLRB*, 330 U.S. 485 (1947), which held that foremen were employees with bargaining rights protected under the Act. This exclusion reflected Congress' judgment that management was entitled to the undivided loyalty of "supervisory personnel, traditionally regarded as part of management." S. Rep. No. 105, 80th Cong., 1st Sess. 3-5 (1947); see also H.R. Rep. No. 245, 80th Cong., 1st Sess. 13-14 (1947).

---

[13] The definition of "employee" contained in Section 2(3) of the Act, 29 U.S.C. 152(3), excludes "any individual employed as a supervisor." Section 2(11) of the Act, 29 U.S.C. 152(11), defines the term "supervisor" as:

> [A]ny individual having authority, *in the interest of the employer*, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment." [Emphasis added.]

Because the definition provides that one or more of the enumerated powers must be exercised "in the interest of the employer," persons who exercise such power in their own interest are not supervisors under the Act. See *Stop & Shop Companies, Inc.* v. *NLRB*, 548 F. 2d 17, 19 (1st Cir. 1977); *NLRB* v. *Wentworth Institute*, 515 F.2d 550, 557 (1st Cir. 1975); *International Ladies' Garment Workers' Union* v. *NLRB*, 339 F.2d 116, 121 (2nd Cir. 1964); *International Union of United Brewery* v. *NLRB (Gulf Bottlers, Inc.)*, 298 F.2d 297, 304 (D.C. Cir. 1961), cert. denied, 369 U.S. 843 (1962).

The Act contains no express exclusion of managerial employees. However, in *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 286-287 (1974), this Court concluded that "managerial employees"—defined as those who " 'formulate and effectuate management policies by expressing and making operative the decisions of their employer' "—are also excluded from the Act's coverage. *Id.* at 288, quoting *Palace Laundry Dry Cleaning*, 75 N.L.R.B. 320, 323 n.4 (1947). The Court also noted the rationale for exclusion of managerial employees summarized in *Retail Clerks International Ass'n* v. *NLRB*, 366 F.2d 642, 645 (D.C. Cir. 1966) (Burger, J.), cert. denied, 386 U.S. 1017 (1967)—that "Congress intended to exclude from the protection of the Act those who comprised a part of 'management' or were allied with it on the theory that they were the one[s] from whom the workers needed protection." 416 U.S. at 288-289 n.16.

While Congress has excluded supervisors and managerial employees from the coverage of the Act, it has expressly included "professional employees." [14] But

[14] Section 2(12) of the Act, 29 U.S.C. 152(12), defines the term "professional employee" to include:

> (a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; * * *

Section 9(b)(1), 29 U.S.C. 159(b)(1), precludes the Board from placing professional employees in the same unit with employees who are not professional employees "unless a majority of such professional employees vote for inclusion in such unit."

the line separating supervisory and managerial employees from professional employees is not clear and bright. [15] Where professional employees in fact perform managerial or supervisory functions, they are properly excluded from the Act's protection. Congress has therefore entrusted to the Board the task of determining the status of the employees in question, and its judgment is entitled to considerable deference. See *Marine Engineers* v. *Interlake Steamship Co.*, 370 U.S. 173, 179-180 (1962); *Westinghouse Electric Corp.* v. *NLRB*, 424 F.2d 1151, 1156 (7th Cir., cert. denied, 400 U.S. 831 (1970). See also *American Broadcasting Companies* v. *Writers Guild of America*, No. 76-1121 (June 21, 1978), slip op. 18-21.

[15] During the hearings on the 1947 Taft-Hartley amendments, management representatives argued for inclusion of professional employees in the supervisory exclusion, contending that they were part of management. *Amendments to the National Labor Relations Act: Hearings on H.R. 8, etc. Before the House Comm. on Education and Labor*, 80th Cong., 1st Sess. 1225 (1947). *Labor Relations Program: Hearings on S. 55 & S.J. Res. 22 Before the Senate Comm. on Labor and Public Welfare*, 80th Cong., 1st Sess. 694 (1947). And see Finkin, *The Supervisory Status of Professional Employees*, 45 Fordham L. Rev. 805, 807 (1977).

b. The university governance structure conforms neither to the typical industrial or commercial model,[16] nor to the medieval model of true collegial decision-making in which complete power and authority is vested in a group of peers.[17] Rather, as the facts in this case show, there are at least two authority systems built into the university's formal structure: "One is the *bureaucratic* network, with formal chains of command running from the trustees down to individual faculty members and students. * * * The other authority system is a *professional* network, for at all levels there are formal mechanisms for bringing the expertise of the faculty into the decision-making

[16] As the Board pointed out in *Adelphi University, supra*, 195 N.L.R.B. at 648, "[t]he statutory concept of 'supervisor' grows out of the fact that in [typical commercial organizations] authority is normally delegated from the top of the organizational pyramid in bits and pieces to individual managers and supervisors who in turn direct the work of the larger number of employees at the base of the pyramid." Similarly, Professor Finkin has observed (*The Supervisory Status of Professional Employees, supra*, 45 Fordham L. Rev. at 808):

> The supervisory exemption is founded upon the assumption of bureaucratic managerial structures widely followed in industry. In a bureaucracy the legitimacy of a decision rests ultimately upon the decision-maker's position in the hierarchy. * * * This stands in sharp contrast to the assumption upon which the professions proceed. Lengthy, specialized education gives rise to expertise; it is by resort to professional judgment rather than to hierarchical authority that the legitimacy of a professional decision is to be tested.

[17] See *Adelphi University, supra*, 195 N.L.R.B. at 648; *New York University, supra*, 205 N.L.R.B. at 5.

process." J. Baldridge, *Power and Conflict in the University* 114 (Wiley 1971) (emphasis in original).

Although the faculty of a university may play an important role in devising the curriculum, setting standards for admissions and graduation, and selecting its own members, they are not generally advocating "management's interests in making their decisions, nor are they advised that they are management's representatives in making them." *Adelphi University, supra*, 195 N.L.R.B. at 648. Instead, they are giving the university management—*i.e.*, the board of trustees and the administrative officers—their independent professional judgment on matters of direct concern to both faculty and administration.[18] Moreover, unlike the typical managerial or supervisory

[18] As the Board explained in *General Dynamics Corp.*, 213 N.L.R.B. 851, 857-858 (1974):

> [M]anagerial status is not conferred upon rank-and-file workers, or upon those who perform routinely, but rather is reserved for those in executive-type positions, those who are closely aligned with management as true representatives of management. Work which is based on professional competence necessarily involves a consistent exercise of discretion and judgment, else professionalism would not be involved. Nevertheless, professional employees plainly are not the same as management employees either by definition or in authority, and managerial authority is not vested in professional employees merely by virtue of their professional status, or because work performed in that status may have a bearing on company direction. * * * A lawyer or a certified public accountant working for, or retained by, a company may well cause a change in company direction, or even policy, based on his professional advice alone, which, by itself would not make him managerial.

employee, faculty members act on a collective rather than an individual basis, and are not accountable to the university administration for the acceptability or compatibility with administration policy of their recommendations;[19] rather, they are evaluated on their competence as teachers and researchers.

The basis for the managerial and supervisory exclusions from the Act is management's right to have its managers and supervisors accountable solely to it and not to have their loyalty divided with a union. Because faculty members are not accountable to management for their recommendations on academic standards, faculty selection, and related matters, and are expected to exercise their own independent judgment in this regard, the danger of divided loyalty that Congress sought to avoid by excluding managerial and supervisory employees from the Act does not exist. Neither management nor faculty have any expectation that the faculty will act as "representative[s] of management" (*NLRB* v. *Bell Aerospace*, *supra*, 416 U.S. at 287) in expressing their views and concerns to the administration and participating in university affairs.

c. The court of appeals acknowledged that the University's full-time faculty members are profes-

[19] For example, the university may issue a directive to the deans to limit expenses. As an agent of the administration the dean is expected to attempt to implement that directive. The faculty, on the other hand, although aware of that administration concern, makes its recommendations based on its collective professional judgment of what its department or school requires.

sional employees within the meaning of Section 2(12) of the Act and that certain of their attributes—the faculty member's "authority to determine the content of his course, the method he employs in teaching it, and the evaluation of his students' academic performance"—do not confer supervisory or managerial status (App. A, *infra*, 26a). The court concluded, however, that because the faculty members also play an important role in determining the University's curriculum, admission and graduation requirements, and the rank, salary, and tenure of one another, "they no longer are simply exercising individual professional expertise," but "are, in effect, substantially and pervasively operating the enterprise" (*id.* at 27a). But, as noted on pages 17-22, *supra*, the critical consideration is not whether the University administration has chosen to obtain the faculty's views on many important matters, but rather whether, in carrying out its responsibilities, the faculty is functioning *for* management and therefore is accountable to it for the acceptability of its recommendations.

Mere involvement by the faculty in the decision-making process affecting tenure, promotion, salary, and academic standards is not an indication that the faculty is aligned in interest with management. To the contrary, these are subjects in which faculty-employees have a direct interest of their own because they may concern the terms and conditions of their employment. The Act requires management to negotiate with its employees about subjects which affect their terms and conditions of employment (*Fibreboard Cor-*

poration v. *NLRB*, 379 U.S. 203 (1964)), and it may not logically be inferred that employees are representing the interests of management when they attempt to influence management's decision on such subjects. Nor was the court of appeals warranted in concluding (App. A, *infra*, 36a), contrary to the Board's finding (App. D, *infra*, 68a), that there is no significant divergence of interest between faculty and management. Like any other group of employees, faculty members have an interest in obtaining pay raises and benefits which management may resist. Thus, the faculty at Yeshiva formed "welfare committees" to negotiate with the University concerning the terms and conditions of employment prior to the Union's representation petition. The faculty's strong vote for the union to serve as its bargaining representative in negotiations with the administration is another indication that it perceives its interests as being, at least in part, separate from those of management and as requiring an independent spokesman. See pages 12-13, 14, *supra*.

Similarly misplaced is the court's reliance on the fact that the administration often accepts the faculty's recommendations (App. A, *infra*, 33a-36a). As noted on pages 8-13, *supra*, their agreement often is the result of a continuous process of discussion, informal negotiation, and compromise. The persuasiveness of the faculty, and the respect of the administration for the views of this essential portion of the University's employees, is no ground for concluding that the faculty has acted as management's representative. Rather, it is evidence both of the determination of the

faculty to assert its interests as an employee group regarding the terms and conditions of academic employment and of the recognition by the administration that faculty satisfaction with the University depends upon such participation.

Finally, the court misconceived the Board's purpose in emphasizing the ultimate authority of the University's Trustees. While it is true that "every corporation is ultimately operated by its Board of Directors" (App. A, *infra*, 37a), the Board's reference to the ultimate authority of the Board of Trustees was intended to show only that the university is not merely a "community of scholars," in which ultimate authority rests with the peer group as in the true collegial model. The existence of the Board of Trustees—similar in function to a Board of Directors—shows that there are similarities between the management of the university and that of a typical business corporation. See *Adelphi University*, *supra*, 195 N.L.R.B. at 648; *New York University*, *supra*, 205 N.L.R.B. at 5.

2. The Board first asserted jurisdiction over private universities and colleges in 1970. *Cornell University*, 183 N.L.R.B. 329 (1970).[20] Since that time

---

[20] There are more than 1,500 such institutions in the United States today, employing approximately 185,000 persons of professional rank. W. Grant and C. Lind, *1977-1978 Digest of Education Statistics* 101, Table 105 (U.S. Department of Health, Educational Welfare 1978). Approximately 2,400,000 students are enrolled in these institutions. *Id.* at 82, 101, Tables 80, 105. Their annual total revenues exceed 12 billion dollars. *Id.* at 126, Table 125.

the Board has conducted many representation proceedings involving faculty bargaining units at such institutions.[21] The decision of the court of appeals in this case rests on reasoning that would deny the protections of the Act not only to the faculty at Yeshiva, but to the faculty at most other universities and colleges as well.[22] Accordingly, if left standing,

---

[21] See, *e.g.*, *Syracuse University Law School*, 204 N.L.R.B. 641 (1973); *University of San Francisco Law School*, 207 N.L.R.B. 12 (1973); *New York University Law School*, 205 N.L.R.B. 4 (1973); *Fairleigh Dickinson University*, 205 N.L.R.B. 673 (1973); *Adelphi University*, 195 N.L.R.B. 639 (1972); *College of Pharmaceutical Services*, 197 N.L.R.B. 959 (1972); *Fordham University Law School*, 193 N.L.R.B. 134 (1971); *Kendall College*, 228 N.L.R.B. 1083 (1977); *Wentworth Institute*, 210 N.L.R.B. 345, enforced, 515 F. 2d 550 (1st Cir. 1975); *Loretto Heights College*, 205 N.L.R.B. 1134 (1973); *Boston University*, 228 N.L.R.B. 1008 (1977), enforced, 575 F. 2d 301 (1st Cir. 1978), petition for cert. pending, No. 78-67.

[22] Although the court of appeals stated that it was addressing itself "solely to the situation at the institution involved in this proceeding" (App. A, *infra*, 22a), the elements of faculty responsibility on which the court relies in finding managerial and/or supervisory status are, as the Board noted in its decision (App. D, *infra*, 68a), essentially the same as those found in other universities.

To the extent that the court of appeals has equated managerial status with mere involvement in or effect upon the management process, it has converted all effective participants in that process into managers. This leads to the anomaly that most full-time faculty members at Yeshiva—and other universities which solicit and respond to the views of their faculties—are "managers" or "supervisors," and the only remaining faculty members with rights under the Act are part-time teachers with limited involvement in university affairs.

that decision will not only deprive the approximately 209 full-time faculty members at Yeshiva of the protections of the Act, but also will create uncertainty as to whether faculty bargaining units at other educational institutions are entitled to that protection, thereby jeopardizing the stability of numerous established bargaining relationships. Review by this Court is therefore warranted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

STEPHEN M. SHAPIRO
Assistant to the Solicitor General

JOHN S. IRVING
General Counsel

JOHN E. HIGGINS, JR.
Deputy General Counsel

ROBERT E. ALLEN
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

LINDA SHER
Assistant General Counsel
National Labor Relations Board

NOVEMBER 1978

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 852—September Term, 1977

(Argued April 26, 1978 Decided July 31, 1978)

Docket No. 77-4182

NATIONAL LABOR RELATIONS BOARD, PETITIONER

—against—

YESHIVA UNIVERSITY, RESPONDENT

—and—

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
INTERVENOR

Before:

LUMBARD, MULLIGAN and TIMBERS,
Circuit Judges.

MULLIGAN, *Circuit Judge*:

The National Labor Relations Board (the Board) has applied for enforcement of its order of August 24, 1977, reported at 231 NLRB No. 98, requiring respondent Yeshiva University (Yeshiva) to recog-

nize the Yeshiva University Faculty Association (the Union) as the exclusive bargaining agent of a unit of Yeshiva's full-time faculty members. The petition for enforcement of the Board's order is denied.

I

On October 30, 1974 the Union filed a petition under § 9(e) of the National Labor Relations Act (the Act), as amended, 29 U.S.C. § 159, for certification of a bargaining unit consisting of full-time faculty at Yeshiva University.[1] In opposition Yeshiva contended that all its faculty members are managerial or supervisory personnel and hence not em-

[1] The Union did not seek to include within the proposed unit the faculty of several schools and affiliates of the University: the Albert Einstein College of Medicine, the Sue Golding Graduate School of Medical Sciences, Yeshiva High School, the Benjamin Cardozo School of Law, and several theological and community programs. The University did not contest the exclusion from the unit of these faculty members. Accordingly, the above divisions of Yeshiva are not here involved and all references to Yeshiva University exclude these schools and programs.

Other faculty excluded from the unit sought by the Union and approved by the Board were part-time faculty; lecturers; Deans, acting deans and Directors; faculty whose initial and subsequent appointment is subject to special funding derived in the main from non-University funds or whose initial or subsequent appointment is in connection with special projects; the Registrar; visiting professors (with effective faculty appointments at other academic institutions); librarians; research assistants; research associates; emeritus faculty not actively engaged in teaching at the University; officers of the University; all other administrative and support personnel; guards, and supervisors as defined in the Act.

ployees within the meaning of the Act. Alternatively, the University sought a unit consisting of all full-time and regular part-time faculty with certain exclusions for managerial or supervisory personnel. Between November 26, 1974 and May 6, 1975 hearings were conducted before a Board-appointed hearing officer. On December 5, 1975 the Board issued its decision and direction of election, reported at 221 N.L.R.B. 1053.

The Board found that the Union was a labor organization within the meaning of the Act and that University faculty were professional employees and not managerial or supervisory personnel. The Board further found that department chairmen, assistant deans, and faculty members of certain committees with University-wide jurisdiction were neither managerial nor supervisory personnel. The Board concluded that a unit of full-time faculty was an appropriate bargaining unit.[2]

[2] The unit approved by the Board included full-time faculty with the titles of professor, associate professor, assistant professor, instructor, or any adjunct or visiting faculty member with such rank, department chairmen, division chairmen, senior faculty and assistant deans. The Board also found that "terminal" faculty members, i.e., those who at the date of the election had received notice of termination or non-renewal of appointment, had reached the mandatory retirement age or had given notice of intention to resign, were eligible to vote if still employed at the date of the election.

Thus the unit sought by the Union was found appropriate with one minor exception: faculty members administering grants under awards by Government or private agencies were excluded from the unit as supervisors under the Act.

In the election held pursuant to the Board's direction between December 16 and 20, 1976 the Union won by a substantial margain. On December 29, 1976 the Union was certified as the exclusive bargaining representative of the employees in the unit.

Yeshiva, however, refused to bargain with the Union and on February 2, 1977, the Board issued a complaint against the University under charges filed by the Union. Yeshiva opposed the complaint and a subsequent motion for summary judgment, again raising objections to the propriety of the NLRB's unit determination.

The University's position was rejected by the Board, which found Yeshiva to be acting in violation of §§ 8(a)(5) and (a)(1) of the Act, as amended, 29 U.S.C. §§ 158(a)(5), (a)(1). The Board granted summary judgment against Yeshiva and ordered the respondent to bargain collectively with the Union. This proceeding was commenced by the Board on October 17, 1977 following Yeshiva's continued refusal to comply with its decision and order.

On this appeal, Yeshiva argues principally, as it did before the Board, that the full-time faculty of the University are managerial and/or supervisory employees within the meaning of the Act and are therefore excluded from the Act's coverage. Yeshiva also urges that two assistant deans and faculty who are departmental or divisional chairmen, or who are members of certain committees on University affairs, exercise additional authority which mandates their

classification as supervisors and/or managers.[3] Before examining these contentions it is necessary to review the structure of Yeshiva and the role played by the faculty in the operation and governance of the University.

II

Yeshiva University is a private institution of higher education chartered under the laws of the State of New York. Its offices and educational facilities are located on four widely separated campuses in New York City. We are here concerned with Yeshiva's six undergraduate colleges and programs,[4] and four graduate schools.[5] Approximately 2,500 full and part-time students are enrolled at Yeshiva. The University is staffed by 209 full-time and 150 part-time faculty members.[6]

---

[3] Yeshiva also argues that the Board abused its discretion by excluding part-time faculty from the unit, and permitting terminal faculty members to vote in the election.

[4] The undergraduate units of Yeshiva are Yeshiva College, Stern Collerge for Women, The Teacher's Institute for Women, The Erna Michael College of Hebraic Studies (Erna Michael College), James Striar School of General Jewish Studies (James Striar School) and the Yeshiva Program.

[5] The graduate schools are: Bernard Revel Graduate School, and its summer division, Harry Fischel School of Higher Jewish Studies (Bernard Revel School), Wurzweiler School of Social Work (Wurzweiler School), Ferkauf Graduate School of Humanities and Social Sciences (Ferkauf Graduate School) and Belfer Graduate School of Sciences (Belfer Graduate School).

[6] Below is a numerical breakdown of the faculty members at Yeshiva's ten schools and programs:

[Footnote continued on page 6a]

Yeshiva has a self-perpetuating Board of Trustees with no administrative position at the school apart from their membership on the Board. The University's chief executive officer is the President. There are, in addition, three vice-presidents at Yeshiva (for student affairs, business affairs, academic affairs) as well as a Bursar, Registrar, Director of Admissions and several University deans. An Executive Council of deans and administrators makes recommendations to the President with respect to various matters. Two other committees, the Coun-

---

[6] [Continued]

UNDERGRADUATE SCHOOLS

	Full-Time Faculty	Part-Time Faculty
Yeshiva College	47	42
Stern College	38	33
Teacher's Institute for Women	4	7
Jewish Studies Programs		
James Striar School	6	8
Erna Michael College	13	8
Yeshiva Program	10	2
Undergraduate School Subtotals:	118	100

GRADUATE SCHOOLS

Belfer Graduate School	38	3
Ferkauf Graduate School	32	23
Wurzweiler Graduate School	18	14
Bernard Revel Graduate School	3	10
Graduate School Subtotals:	91	50
TOTALS:	209	150

cil of Graduate Schools and the Council of Undergraduate Schools advise the President and Board regarding inter-divisional programs designed to increase coordination and cooperation among the schools and divisions of the University. These councils consist of elected student and faculty representatives from each school or division, the dean or director of each academic unit and members of the University administration, including the President. A Faculty Handbook sets forth University policies regarding faculty appointments, promotion, tenure, termination and sabbaticals.

Each of the schools or divisions is headed by a dean or director. Most of the schools have a faculty assembly or student-faculty senate as well as a committee structure, including, *inter alia*, a curriculum committee, a standards committee, and a welfare committee. The faculty of each school meet periodically and at Stern College, Yeshiva College, and the Belfer and Ferkauf Graduate Schools the faculties meet and conduct their affairs according to written by-laws and/or constitutions which have been approved by the President. Only two of the schools, Yeshiva College and the Belfer Graduate School, have assistant deans. These two assistant deans are teaching faculty members.

Each school, college and program at Yeshiva enjoys great autonomy in determining its own curriculum, grading system, and academic standards as well as in a wide variety of other matters. Therefore the role of the faculty at Yeshiva can best be ap-

preciated by a review of the individual academic units of the University.

1. *Stern College for Women*

At Stern College a Committee on Academic Standards, composed of the Dean of the College, Dean Mirsky, who retains his faculty rank, and six full-time faculty, fixes the academic requirements and decides whether a student whose performance is inadequate will be required to leave the school. Although Dean Mirsky recognizes that the decision to dismiss a student results in a loss of tuition income, he has never overruled the Committee. Similar committees composed predominantly of faculty members establish admission standards, determine graduation requirements, and set up grading systems. Upon the recommendation of a scheduling committee the faculty introduced a new scheduling model for the school. In response to growing budgetary limitations, a faculty committee on personnel and budget has made generally effective recommendations concerning elimination of elective courses, the establishment of joint courses, and other scheduling changes. In the 1969-70 academic year the Stern College faculty disagreed with a decision by Dean Mirsky and the Curriculum Committee to delete Stern's education major; Mirsky reinstituted the major. Indeed, a faculty dominated curriculum committee must pass on all program changes or changes in graduation requirements.

Department chairmen call to Mirsky's attention the need for new faculty members. Interviewing is done

by the chairman and the Dean who then agree on an appointment. Dean Mirsky has never made a faculty appointment which was not approved by a department chairman. Similarly effective recommendations are made by department chairmen regarding termination of faculty members. Mirsky has only once disagreed with a department chairman with respect to a termination.

Promotion recommendations are solicited from department chairmen by a faculty Promotions Committee. The committee passes on its recommendation to Mirsky who has always accepted the committee's decisions. The University President has granted the great majority of recommended promotions and has never overruled a negative recommendation.

Tenure recommendations are made both by Mirsky and the candidate's department chairman to the University President. All negative tenure recommendations by chairmen have been accepted both by Mirsky and by the administration. In only one instance has Mirsky disagreed with a chairman's positive tenure recommendation. Nevertheless, tenure was granted on that occasion.

2. *Yeshiva College*

At Yeshiva College a College Senate composed of faculty, administrators, students and alumni members has jurisdiction over admissions policy, scholastic standards, the grading system and other academic policy matters. All measures passed by the Senate are subject to veto by the Faculty Assembly. The

Dean of the College, Dean Bacon, who is also a professor of linguistics, testified that he feels compelled to see that decisions of the Senate and Assembly are executed. Moreover, not once in Bacon's sixteen years as Dean has the University President veoted an action by either body. Bacon is aided by an assistant dean who teaches one course per semester.

Yeshiva College is divided into "subject areas" which are the equivalent of departments in other schools. The counterpart of the department chairman at Yeshiva College is the senior professor in the subject area. Subject areas are grouped into four broad divisions. One senior professor in each division serves as a "divisional chairman."

The divisional chairmen comprise the Advisory Council on Promotions. Recommendations on promotions by the Council have always been followed by the President of the University, although such recommendations have, at times, been in conflict with those made by Dean Bacon.

Senior professors screen applicants for faculty positions. Dean Bacon and the senior professor then jointly make the hiring decisions with Bacon generally accepting the recommendations of the senior professor. Indeed, the Dean has never appointed a faculty member over the objection of a senior professor and once sustained a senior professor's objection over the appointment desired by a University Vice-President for Academic Affairs. Dean Bacon has given equal deference to the recommendations of senior professors regarding termination and re-

appointment of probationary faculty. Finally, senior professors largely determine the budget of their subject area. The budget requests of the senior professors receive perfunctory approval by Bacon "99 percent" of the time and, during Bacon's tenure had never been rejected by the University administration.

3. *Erna Michael College*

At Erna Michael College, admissions procedure, curricular matters, grading, scheduling and other questions of academic policy are subjects on which the faculty, through the faculty meeting, governs. The faculty has also implemented a basic restructuring of the College in which the number of academic hours required of students was substantially reduced. As a result, faculty at the College now teach fewer hours and teach a minimum of only three rather than four days per week. Dean Rabinowitz of Erna Michael testified that he felt bound to institute even those faculty decisions with which he disagreed, such as the establishment of trimester academic calendar. Neither Dean Rabinowitz nor any other member of the administration has ever vetoed a decision of the faculty on such issues.

Evaluation of faculty to determine whether retention or salary increase is warranted is often carried out at a meeting of faculty in the affected member's academic subject area and is led by the senior professor who, as at Yeshiva College, is the equivalent of a department chairman. At other times such evaluations are simply made by the senior professor.

The role of the senior professors at Erna Michael regarding promotion and termination of faculty is very similar to that at Yeshiva College.

4. *The Teacher's Institute for Women*

The Director of the Teacher's Institute, Rabbi Faivelson, testified that the faculty had made effective recommendations regarding curriculum, admissions policy and degree requirements.

When the need for a new faculty member arises Rabbi Faivelson asks the faculty[7] whether they have any objections to the applicants. Faivelson stated that if any faculty member has the slightest objection the applicant is not hired. On an occasion where Faivelson favored termination of a faculty member for budgetary reasons the faculty voted against the termination and the faculty member was retained.

Rabbi Faivelson once recommended that the Institute move to Brooklyn to attract better students. The faculty rejected the proposal and determined that the school would remain in Manhattan.

5. *James Striar School*

Director of James Striar, Rabbi Besdin, who carries a full-time teaching load, testified that faculty meetings are "in a great sense decisive as to the direction of the school." The faculty at James Striar have considered at their meetings administrative

[7] There are no faculty ranks at the Institute. Thus, there are no department chairmen or senior professors.

regulations, curriculum matters, and course offerings. Rabbi Besdin testified that he did not recall ever overruling a direct recommendation of the faculty. Indeed, he stated that on one occasion a majority of the faculty rejected his recommendation to retain a student guidance procedure, thereby "overruling" Besdin on the issue.

Part-time faculty hiring decisions are made by Besdin and the affected department chairman. Besdin has never hired a full-time faculty member without consulting the concerned department head.

6. *The Yeshiva Program*

Rabbi Charlop is the Director of the Yeshiva Program, which provides a course of study in Talmudic texts. There are no traditional faculty ranks at the Yeshiva Program. Rabbi Charlop testified that decisions affecting academic matters are made by a consensus of the faculty. In one instance the faculty decided to extend the academic calendar by two weeks and this decision was implemented.

7. *Belfer Graduate School*

Arthur Komar became Belfer's Dean in 1968 after the school's faculty successfully petitioned the President of the University for the removal of Komar's predecessor. Thereafter, Komar was elected Acting Dean by the faculty and he obtained a vote of approval from the faculty before accepting a permanent appointment as Dean. Komar, who was teaching one course at Belfer when he testified, stated that he

viewed his position as Dean as "first among equals." Komar's assistant dean is a tenured assistant professor who teaches one course each semester.

At Belfer a Faculty Council deals with curricular problems, size of departments and formation of new departments. It has even discussed the financial and wage policies of the school. The majority of the key decisions in the governance of Belfer, however, are made by the school's departments. The hiring of faculty members and the length of their appointments are determined by a majority vote of the department. Dean Komar testified that his only role in hiring is his participation—like any other faculty member—in the discusison and voting on applicants to his department. Decisions on promotion, tenure and nonrenewal of faculty appointments are also made within each department by consensus. Komar stated that he does not believe he has the right to override such departmental decisions. Salary negotiations with new faculty are arrived at not by Komar but by department chairmen. The chairman's recommendations for salary figures are generally accepted by the Dean.

8. *Ferkauf Graduate School*

As at Belfer, faculty hiring decisions at Ferkauf are effectively made by consensus of the department. The Dean of Ferkauf, Dean Gittler, last taught a course in the semester prior to his testimony. He stated that he accepts "98 percent" of faculty appointments recommended by the departments and the administration has never vetoed an appointment.

Rank of appointees (and thus their salary) is also decided by the department.

Many other aspects of the school's operation are resolved by faculty committees. The Promotions Committee effectively determines questions of faculty promotions. In fact, a promotion has never been made in the face of a negative committee decision and only once in the past nine years has a positive committee recommendation not resulted in the faculty member's promotion.

Tenure questions are handled by the Faculty Council on Tenure. Neither Dean Gittler nor the administration has ever reversed a negative tenure decision of the Council. Only once has a positive recommendation not resulted in a grant of tenure.

Department chairmen at Ferkauf wield substantial budgetary power through the Chairmen's Council. Until the budget cutbacks of the last few years every aspect of the budget was deliberated by the Council. Similarly, tuition increasse are never recommended by Dean Gittler unless the chairmen concur. Chairmen also establish, in consultation with their departments, the workload of the full-time faculty.

9. *Wurzweiler School*

The role of the faculty at Wurzweiler is very similar to that at Ferkauf. The acting Dean of Wurzweiler, Dr. Green, who retains his faculty rank and was teaching two courses at the time of the hearings, testified that the internal operation of the school is "heavily governed" by faculty decisions. In addi-

tion to wielding great power on academic matters, the faculty has made decisions with serious budgetary consequences. For example, when Dean Green proposed a $500 tuition increase the faculty disagreed and sought an increase of only $300. The faculty's position prevailed. The faculty also made a decision to increase the size of the student body at Wurzweiler.

Faculty committees play a prominent part in the running of Wurzweiler. One such committee monitors the school's community social work program to ensure compliance with the goals of the outside agency which funds the program. Thus the committee's oversight has an important effect on retention of the program's funds.

The hiring, promotions, termination and tenure policies of the school were in a transitional state at the time of the hearings. Hiring was currently conducted by an ad hoc faculty committee which made a selection from candidates submitted by the Dean, who accepted all committee recommendations. A personnel committee has drawn up guidelines for substantial expansion of the faculty's role in questions of promotion, termination and tenure. While these guidelines have not been fully enacted to date, Dean Green confirmed that except for a minor clause which was contrary to provisions of the University's Faculty Handbook, the Wurzweiler faculty had authority to promulgate such guidelines, which were then binding on the dean.

10. *Bernard Revel School*

At the time of the hearings Revel had no permanent Dean. Dr. Leo Landman, Secretary of the Faculty, was currently overseeing the day-to-day operation of the school as well as teaching two courses. Landman testified that decisions on curriculum, admissions requirements, degree requirements, and course offerings were made by consensus of the faculty. Landman further stated that the faculty's decisions were generally given effect.

According to Landman's uncontroverted testimony, department chairmen at Revel made effective recommendations regarding both full and part-time faculty hiring. In fact, chairmen's negative recommendations in this area had always been upheld.

* * * * *

Two other important organs of University-wide faculty governance should be mentioned. The Faculty Review Committee is composed of eight tenured faculty members who are elected from the various schools of the University. The Committee has jurisdiction to review faculty grievances, particularly those concerning promotion and tenure. If the grievance is not satisfactorily resolved after the Committee has notified the Dean of the interested school, the Committee is authorized to recommend action to the President. Faculty members, along with students and administrators, also sit on a recently formed Committee on Academic Priorities and Resource Allocation. The purpose of this Committee is to provide a long-range

scale of academic and fiscal priorities at Yeshiva. Hence, Dean Rabinowitz, a committee member, testified that the Committee is empowered to reevaluate the objectives of the schools of the University, and to review class size, staffing patterns, physical facilities, tuition levels and fund raising methods. It should be noted, however, that this committee at the time of the hearings had met only twice and had not focused upon particular problems nor made any specific recommendations.

III

The major issue raised in this case is whether the full-time faculty [8] of Yeshiva are supervisors within

[8] While we need not resolve the question, we note that we agree with the Board that the part-time faculty is properly excluded from the unit because they play a significantly lesser role in the affairs of the University than the full-time faculty and there is a lack of mutuality of interests between the two groups. *Trustees of Boston University* v. *NLRB*, Dkt. 77-1143, slip op. at 14 (1st Cir. April 13, 1978); *Kendall College* v. *NLRB*, 570 F.2d 216 (7th Cir. 1978); *New York University*, 205 N.L.R.B. 4, 6-7 (1973). In view of our disposition we need not pass on Yeshiva's position that terminal faculty should have been excluded from the unit and two assistant deans included. Also academic is the University's argument that certain committee and department chairmen who exercise supervisory power over non-unit personnel must, on that account, be excluded as supervisors.

One apparent rationale for the Board's inclusion of these chairmen in the unit is its so-called 50 percent rule, established by the Board in *Adelphi University*, 195 N.L.R.B. 639 (1972), under which the Board does not denominate as supervisors those faculty members who supervise nonprofessionals less than 50 percent of the time. Recently, the First Circuit cited this doctrine to support inclusion of faculty chairmen

section 2(11) of the Act, 29 U.S.C. § 152(11), and/or managerial personnel within the Board's own definition as adopted by the courts, and therefore whether these faculty members are improperly included as employees in the bargaining unit.[9]

Section 2(11) defines a supervisor as follows:

> The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to

in a bargaining unit in a case where the court found such supervisory duties occupied only 5 to 10 percent of the individuals' time. *Trustees of Boston University* v. *NLRB*, *supra*, slip op. at 10 n.4. The court withheld its view of the validity of this rule in situations involving significantly greater amounts of time spent in a supervisory role. This court has specifically declined to assess the "legal justification" for the 50 percent rule. *NLRB* v. *Mercy College*, 536 F.2d 544, 550 (2d Cir. 1976).

[9] Although the Board has, on a number of occasions, considered the question whether full-time faculty at a mature university are supervisors or managers under the Act, see cases cited in text at 4139, *infra*, no court of appeals has squarely determined the issue. In *NLRB* v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975) the First Circuit simply rejected the Institute's argument that *all* faculty at *all* institutions of higher learning must be excluded from the Act's coverage. Limiting itself to the institution at hand, the court found that at Wentworth there was "no evidence of an instance of significant faculty impact collectively or individually on policy or managerial matters." Id. at 557. In *Trustees of Boston University* v. *NLRB*, *supra*, the university argued that certain department chairmen were supervisors rather than that the entire faculty should have been deemed managerial or supervisory.

> adjust their grievances, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

It is well settled in the industrial context that possession of any one of the enumerated powers in section 2(11) or the power to effectively recommend with respect to any one of them is sufficient to satisfy the statutory definition of a supervisor.[10] E.g., *NLRB* v. *Metropolitan Life Insurance Co.*, 405 F.2d 1169, 1177 (2d Cir. 1968); *NLRB* v. *Quincy Steel Casting Co., Inc.*, 200 F.2d 293 (1st Cir. 1952); *Ohio Power Co.* v. *NLRB*, 176 F.2d 385 (6th Cir.), cert. denied, 338 U.S. 899 (1949).

[10] It should be noted, however, that the Board has been less rigorous in denominating individuals as supervisors in those cases in which the employees involved were professionals within the meaning of section 2(12) of the Act, 29 U.S.C. § 152(12). E.g., *General Dynamics Corp.*, 213 N.L.R.B. 851 (1974); *Adelphi University, supra,* at 644. In instances in which the professionals involved possessed only limited supervisory authority and exercised such authority only sporadically the courts have been willing to accept the Board's position. E.g., *Trustees of Boston University* v. *NLRB, supra,* at 10; *Westinghouse Electric Corp.*, 163 N.L.R.B. 723 (1967), enf'd, 424 F.2d 1151 (7th Cir.), cert. denied, 400 U.S. 831 (1970). This discrepancy in the Board's approach seemingly results from the tension between the exclusion from the Act of supervisors under section 2(11) and the inclusion of professional employees under section 2(12). M. Finkin, The Supervisory Status of Professional Employees, 45 Fordham L.Rev. 805, 807-828 (1977). However, we cannot accept this rationale in the instant case, where the supervisory and managerial authority of the faculty is so pervasive and consistently exercised.

Managerial employees are exempted from the coverage of the Act not by explicit statutory language but as a matter of Board policy and unanimous court approval. *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc.*, 416 U.S. 267, 285-89 (1974). Employees who fall within this category include " 'those who formulate, determine, and effectuate an employer's policies.' " *Retail Clerks International Association* v. *NLRB*, 366 F.2d 642, 645 (1966) (Burger, *J.*), cert. denied, 386 U.S. 1017 (1967). In *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc., supra,* the Supreme Court emphasized the mandatory nature of the exclusion of all employees found to be managerial.

> [T]he Board's early decisions, the purpose and legislative history of the Taft-Hartley Act of 1947, the Board's subsequent and consistent construction of the Act for more than two decades, and the decisions of the courts of appeals all point unmistakably to the conclusion that "managerial employees" are not covered by the Act.

Id. at 289. The Court concluded that the Board " 'is not now free' to read a new and more restrictive meaning into the Act" by which certain managerial employees would be held to be within its coverage. Id.

The record, which has been set forth in some detail in Part II and which is not controverted by the Board, strongly supports the contention of Yeshiva that a full-time faculty, acting at times through committees or department chairmen,[11] and at other times

[11] We do not dispute the Board's finding that when department chairmen at Yeshiva act on matters such as faculty ap-

as a body, exercises supervisory and managerial functions as defined by section 2(11) of the Act and within the Board's prior holdings as discussed in *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc.* We stress that our function is not to examine *in vacuo* the governance procedures of all four-year private institutions of learning described in the briefs of the *amici* universities as "mature" institutions of higher education. Many such institutions have apparently adopted a collegial decision making process in which the faculty plays a decisive role in the development of institutional policy. Given the great diversity in governance structure and allocation of power at such universities it is appropriate to address ourselves solely to the situation at the institution involved in this proceeding. *NLRB* v. *Wentworth Institute*, 515 F.2d 550, 556 (1st Cir. 1975). The record here discloses that in many instances the full-time faculty of the schools of Yeshiva without question effectively recommend the hiring, promotion, salary and tenure of the faculty of the University in a manner which can hardly be described as routine or clerical. They further perform managerial functions not only by their personnel decisions but by adopting the standards of admission, the curriculum, the grading system and the graduation requirements of their school. Moreover, in particular cases the hiring of deans, the physical location of a school, teaching loads, and even the tuition to be charged were controlled by the full-time faculty. Indeed, the ability of the full-time faculty effectively to recommend or even to exercise many of the enumerated powers of section 2(11) and to formulate and effectuate University policy is not really disputed here. The Board's decision of December 5, 1975 treated the issue summarily.

> We find from our examination of the record, however, that the role and authority of the faculty herein with respect to hiring, promotion, salary increases, the granting of tenure, and other areas of governance are not significantly different from what they were in [previous Board decisions] wherein the same arguments were rejected. At Yeshiva University, faculty participation in collegial decision making is on a collective rather than individual basis, it is exercised in the faculty's own interest rather than "in the interest of the employer," and final authority rests with the board of trustees. (Citations omitted).

221 N.L.R.B. 1053, 1054 (1975). The Board concluded that "the faculty members are professional employees under the Act who are entitled to vote for or against collective-bargaining representation" and that a unit of full-time teaching faculty members was appropriate.

---

pointments, tenure, salary increases and the like, they function "primarily as instruments of the faculty." See, e.g., *Trustees of Boston University* v. *NLRB, supra,* slip op. at 9; *New York University, supra; Fordham University,* 193 N.L.R.B. 134 (1971). Rather, this finding of the Board reinforces our belief that in a variety of ways the full-time faculty at Yeshiva wields supervisory and managerial power.

Thus, without any analysis the Board found that Yeshiva's full-time faculty were neither supervisors nor managerial personnel simply by stating that the substantial authority of the faculty was wielded in their capacity as professionals and by invoking three doctrines promulgated in earlier Board rulings. Since we are unpersuaded that these four justifications for the Board's decision on this point withstand careful scrutiny, we will analyze them, *seriatim*, below.

A. *The Full-Time Faculty are Professional Employees.*

Under section 2(12) of the Act, 29 U.S.C. § 152 (12),[12] a professional employee is specifically in-

[12] Section 2(12) of the Act defines a professional employee as

> (a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or
>
> (b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

cluded within the Act's coverage despite the fact that in the performance of his work he must exercise consistent discretion and judgment. Yeshiva does not argue that its full-time faculty members are not professional within the statutory definition of that term. They are obviously engaged in work which is "predominately intellectual," requiring advanced knowledge in a field of learning, and they do not perform work which is "routine mental, manual, mechanical, or physical" in nature. However, the fact that employees are professional does not preclude them from also being categorized as supervisory or managerial employees ineligible for inclusion in a bargaining unit. See, e.g., *General Dynamics Corp.*, 213 N.L.R.B. 851, 860, 862, 863 (1974); *Westinghouse Electric Corp., supra*, at 726; *American Oil Co.*, 155 N.L.R.B. 46, 48, 49 (1965); *Puget Sound Power & Light Co.*, 117 N.L.R.B. 1825, 1827 (1957). Even in an educational setting, the Board in *University of Chicago Library*, 205 N.L.R.B. 220 (1973), en'd, 506 F.2d 1402 (7th Cir. 1974) and *Claremont Colleges*, 198 N.L.R.B. 811 (1972) excluded professional librarians from a unit of library employees because they supervised non-professionals. Hence, it has been established by the Board's own decisions that simply because individuals are professionals under section 2(12), that status *per se* does not preclude their classification as supervisory or managerial personnel.

Whether, as a matter of policy, faculty members of institutions of higher learning are advantaged or

disadvantaged by collective bargaining is an issue which has understandably created divergent views.[13] But the Board, like the court, is bound both by the Act and by prior judicial interpretations of it. Unquestionably, a university full-time faculty member has the authority to determine the content of his course, the method he employs in teaching it, and the evaluation of his students' academic performance. *New York University, supra,* at 5. These factors place such faculty members squarely within the language of section 2(12) and these attributes of professionalism should not characterize them as managerial or supervisory.

---

[13] *Compare,* e.g., Kahn, The NLRB and Higher Education: The Failure of Policymaking Through Adjudication, 21 U.C.L.A. L.Rev. 63, 79-83 (1973) (hereinafter cited as Kahn); Kadish, The Theory of the Profession and Its Predicament, 58 A.A.U.P. Bull. 120, 122 (1972); and Brown, Collective Bargaining in Higher Education, 67 Mich. L.Rev. 1067, 1072 (1969), *with* The Carnegie Commission on Higher Education, Governance of Higher Education, A Report and Recommendation (1973); and Bloustein, A Chamber of Horrors!, in The Effects of Faculty Collective Bargaining on Higher Education 110 (R. Hewitt ed. 1973).

The Board acknowledges in its brief that the activities of the full-time faculty at Yeshiva might suggest managerial or supervisory status in other contexts, but not in the case of an institution of higher learning. The legal justification for a different standard for university faculty is not made clear. The Board does comment, however, that labor organizations currently administer collective bargaining agreements for faculty at over 500 colleges and universities across the country and, therefore, the Board's position comports with "widely shared recognition of the organizational rights of faculty."

However, the issue as we perceive it in this case involves not simply the professor's exercise of discretion in conducting the courses he is employed to teach. Rather, the issue here is the extensive control of Yeshiva's faculty over what courses are taught in the institution, who teaches them, the number of teaching hours required of the faculty, and the rank, salary, and tenure status of other faculty members. We are further concerned by the crucial role of the full-time faculty in determining other central policies of the institution including, *inter alia,* the curriculum, admissions and graduation requirements, tuition, and in one instance, even the situs of a school. When faculty members have such power—as the board indicates they do at Yeshiva—they no longer are simply exercising individual professional expertise. They are, in effect, substantially and pervasively operating the enterprise.

The Board relies in part on *General Dynamics Corp., supra,* at 857-58, where it commented that a lawyer or a certified public accountant might well as a professional "cause a change in company direction or policy which is based upon his professional advice alone," and yet should not on that account be held a managerial employee. However, we cannot reasonably equate the input of professionals in a profit-making commercial enterprise, whose advice based on their "technical expertise," id., may influence management on occasion to implement policy changes,

with that of the full-time university faculty, which is here largely responsible for the conduct and direction of an institution of higher education. This is not the case of a company which hires an occasional scholar to guide it in making engineering, legal or accounting decisions which have an impact on its business; this is the "company of scholars" itself. It is well recognized that most university faculties enjoy a state of independence and influence on policy which is "entirely unknown among the professionals in private industry." Kahn, *supra*, at 68; accord, Sands, The Role of Collective Bargaining in Higher Education, 1971 Wis. L. Rev. 150, 157. As Mr. Justice Cardozo noted: "By practice and tradition the members of the faculty are masters not servants. . . . They have the independence appropriate to the company of scholars." *Hamburger* v. *Cornell University*, 240 N.Y. 328, 336-37, 148 N.E. 539, 541 (1925).

Thus, while we readily concede that Yeshiva's full-time faculty satisfy the Act's criteria for professional status, we reject the Board's position that by the possession and exercise of the broad powers detailed in Part II of this opinion the full-time faculty at Yeshiva act only as professionals and not in a managerial or supervisory capacity.

B. *The Full-Time Faculty Acts Collectively.*

The Board here adheres to the view it first expressed in *C.W. Post Center of Long Island University*, 189 N.L.R.B. 904 (1971) and has reiterated

in *Northeastern University*, 218 N.L.R.B. 247 (1975); *University of Miami*, 213 N.L.R.B. 634 (1974); *Adelphi University, supra;* and *Fordham University, supra.* The Board's position is that since the faculty's supervisory and managerial functions are exercised "on a collective basis" rather than by individual faculty members, they must be denied status as supervisory or managerial personnel. The Board's rationale is not adequately explained in this or in its prior opinions.[14] Section 2(11) does, however, state that it is applicable to "an individual" who possesses the enumerated indicia of supervision. Since the control here in issue is not that of individual faculty member over nonprofessionals, but the collective control exercised by the faculty either in con-

[14] When the Board first announced this view in *C.W. Post Center of Long Island University, supra*, at 905, it did so without benefit of analysis, and without citation to pertinent administrative decisions, judicial precedents or legislative history. In *Fordham University, supra*, the Board repeated its conclusory approach to the problem. Finally, in *Adelphi University, supra*, the Board conceded that its position arose not from precedent but from its puzzlement in attempting to apply to the unique university governance structure terms which were "designed to cope in the typical organizations of the commercial world." Id. at 648. The Board admitted that it could not square the Act with the university setting in which "power and authority is vested in a body composed of all of one's peers or colleagues." Id. See Kahn, *supra*, at 95, 120-25. In two subsequent decisions, *Northeastern University, supra*, and *Miami University, supra*, the Board refused to further analyze or reconsider the issue of the supervisory or managerial status of full-time faculty. Instead, it dismissed the question, as it did in this case, solely by reference to its earlier rulings.

cert, through department chairmen, or through faculty dominated committees, it must be conceded that if read literally the statutory definition can be construed not to cover the full-time faculty. Since students are not employees the individual faculty supervision over students does not fit within the statutory definition, which requires that the supervisory power be directed to employees. There is the further logical difficulty of holding that the supervisory employees supervise other supervisory employees, cf. *General Dynamics Corp., supra,* at 859; *Post-Newsweek Stations, Capital Area, Inc.,* 203 N.L.R.B. 522 (1973), although this is somewhat defused when we consider that in many of Yeshiva's schools the full-time faculty also supervise collectively the activities of the part-time faculty.

Certainly, however, this Board interpretation is not the only reasonable reading of the language of section 2(11). In view of the statute's ambiguity we are disturbed by other holdings of the Board in which the collective exercise of supervisory authority was *not* grounds for exclusion from that status. Thus in *Florida Southern College,* 196 N.L.R.B. 888, 889 (1972), a case decided after the Board's rulings in *C.W. Post, supra, Fordham University, supra,* and *Adelphi University, supra,* the Board excluded a teaching dean from the faculty bargaining unit because he sat on a *committee* which made effective recommendations regarding the hiring and firing of faculty members. See also *Western Saw Manufac-*

turers, Inc., 155 N.L.R.B. 1323, 1329 n.11 (1965) (foreman held a supervisor in part due to service on a board which determined employee termination). The inconsistent interpretation of this provision by the Board is also troublesome in that the Board refers this court to no legislative history of the section —and our own review has uncovered none—which clearly supports the "collective authority" doctrine which the Board urges upon us. Rather, the history of section 2(11) indicates that such collective supervision simply was not actively considered by Congress at the time. See S.Rep. No. 105, 80th Cong., 1st Sess. 3-5 (1947); H.R. Rep. No. 245, 80th Cong., 1st Sess. 13-18 (1947); H.R. Conf. Rep. No. 510, 80th Cong., 1st Sess. 35-36 (1947). Indeed, one commentator has stated that there is no citable precedent for the "collective authority" approach first taken by the Board in *C.W. Post, supra.* Kahn, *supra,* at 95. Moreover, we think a construction of section 2(11) as including individuals who exercise supervisory functions as part of a group or committee is a realistic interpretation of the section since group action is so frequently encountered in modern corporate decision making. See, e.g., N. Jacoby, Corporate Power and Social Responsibility 58 (1973); H. Oleck, Non-Profit Corporations and Associations § 183 (1956).

We need not resolve this point, however, since there is no such "individual" statutory restriction in the Board's own concept of "managerial employees." In

fact, in *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc., supra,* the managerial personnel found not to be within the collective bargaining unit exercised their managerial functions as a "team." Id. at 270.[15] Logically, we see no reason that the fact that the policies of a company are created by a group (as indeed they usually are by the Board of Directors) rather than by an individual should be of signficance in determining whether an individual has managerial status, and the Board has advanced no satisfactory rationale for the weight it has given this factor.

C. *The Faculty Acts on Their Own Behalf and Not in the Interest of the Employer.*

As it has done consistently in the past,[16] the Board here denied managerial or supervisory status to the full-time faculty on the additional ground that the faculty is alleged to be acting on its own behalf and

---

[15] Cf. *Sida of Hawaii, Inc.*, 191 N.L.R.B. 194, 195 (1971); *Red and White Airway Cab Co.*, 123 N.L.R.B. 83, 85 (1959); *Brookings Plywood Corp.*, 98 N.L.R.B. 794, 798 (1952). In these cases employee-shareholders were excluded from the bargaining units where in the aggregate they held sufficient shares to give them an effective voice in the formulation of corporate policy.

It should also be noted that in *NLRB* v. *Wentworth Institute, supra,* no managerial or supervisory exclusion was found because the court perceived no evidence of "significant faculty impact *collectively or individually.*" Id. at 557 (emphasis added).

[16] *Northeastern University, supra; University of Miami, supra; Adelphi University, supra;* see *New York University, supra.*

not on behalf of Yeshiva, its employer. The record in no way supports this proposition and in its argument the Board simply advances the conclusory statement that collegial action by peers is inherently action in the interest of the faculty themselves, not in the interest of the University *qua* employer. Indeed, this is characterized in the Board's brief as a "circumstance peculiar to most institutions of higher learning." However, looking at the record one cannot escape the conclusion that even assuming that the faculty's determinations on personnel, curriculum, admissions, grading, graduation requirements and other policy issues were motivated by the faculty's own best interests, the fact that the administration and Board of Trustees of Yeshiva so rarely interfered in the faculty decisions indicates that the interests of the faculty and of the University were almost always coextensive. Cf. *NLRB* v. *Scott Paper Co.*, 440 F.2d 625, 630 (1st Cir. 1971) (court rejected Board's argument that tractor owner-operators were not supervisors because authority not exercised in interest of employer company on ground that interests "were so intertwined that powers were exercised for both."); *Deaton Truck Lines, Inc.* v. *NLRB*, 337 F.2d 697 (5th Cir. 1964), cert. denied, 381 U.S. 903 (1965) (same). Certainly, the deans whom the Board found to be supervisory or managerial displayed a remarkable degree of acquiescence and often went so far as to proclaim their identity of interest

with the faculty.[17] The full-time faculty as a whole or through committees have not in fact acted simply in an advisory capacity, nor have they merely made recommendations which were accorded substantial weight; their decisions on major policy issues have, for the most part proved definitive. Our review of the record leads us to conclude that at Yeshiva University, as Director Faivelson remarked of the Teacher's Institute: "The faculty is the school."

Aside from the record, there is nothing in the Board's reasoning which would support the proposition that the full-time faculty is somehow acting on its own behalf and not that of the University. In fact, a realistic assessment of the way in which a university such as Yeshiva functions, demonstrates the inapplicability of the "interest of the faculty" analysis in such a context:

> The faculty, by the very nature of the educational process in institutions of higher education, participates in decision making which in private industry would normally be regarded as a management prerogative. The faculty at most four-year colleges and universities has a voice in determining standards for admissions, curriculum, degree requirements, faculty hiring and promotion, and even tuition rates. Such a state of independence is entirely unknown among the professionals in private industry. Furthermore, in

[17] For example, Dean Rabinowitz of Erna Michael College testified that his role was "simply [to] carry out the mandate of the faculty," and Dean Komar of Belfer Graduate School saw his position as Dean as "first among equals".

> higher education there is no sharp dividing line between the employer and the employees. The university is, ideally, a professional community in which common educational interests supersede all potential divisions between the faculty and the administration. The university's unique set of goals (education, research, and service) is achieved only by a series of specialist communities working together through their common concern for enlarging and applying their own spheres of knowledge. Thus, there is no sharp dividing line between the community of administrators and the community of faculty, for both have the common goal of striving to further the institution as a house of learning.

Kahn, supra, at 68 (citation omitted).

This concept of "shared authority" in the university and private four year college has its origins in the Middle Ages when teachers united "into a corporate body enjoying more or less autonomy" over the operation of the institution. McHugh, Collective Bargaining With Professionals in Higher Education: Problems in Unit Determinations, 1971 Wis. L. Rev. 55, 65 (hereinafter cited as McHugh). In 1966, a Statement on Government of Colleges and Universities, 52 A.A.U.P. Bull. 375 (1966) (hereinafter cited as Statement), which was jointly formulated and approved by the American Association of University Professors, the American Council of Education, and the Association of Governing Boards of Universities and Colleges, applauded the principle of shared authority among the Board of Trustees, the adminis-

tration, and the faculty. The statement recognized that

> [t]hese three components have the joint authority and responsibility for governing the institution, and the essential and overriding idea is that the enterprise is joint and that there must be "adequate communication among these components, and full opportunity for appropriate joint planning and effort."

Kahn, *supra*, at 71.

Whatever the situation may be in other institutions, the record here establishes no significant divergence between the interests of the faculty and those of the administration or the Board of Trustees. On the contrary, the faculty has initiated, and the administration has repeatedly accepted, major policy determinations which constitute the essence of the University's educational venture. We cannot conclude that the full-time faculty here has acted in its own interest. Even if it had, the University has accepted those decisions without hesitation so consistently that the Board's attempt to dichotomize those interests results in a strained, artificial separation. Whether the degree of control exercised by the faculty and the forbearance of the administrators is salutary fiscally and academically is not in issue here. In fact it does exist.

D. *The Faculty is Not Managerial or Supervisory Because it is Subject to the Ultimate Authority of the Board of Trustees.*

Although none of the criteria applied by the Board which we have so far discussed has any particular appeal, the concept that the faculty has neither managerial nor supervisory status because it is subject to the ultimate authority of the Board of Trustees is particularly unconvincing.[18] Normally, every corporation is ultimately operated by its Board of Directors, W. Cary, Corporations 153 (4th ed. 1969), and yet that fact obviously has never precluded a finding that there are managerial or supervisory employees in the corporation. Certainly the President and Vice-Presidents of Yeshiva as well as its Deans are subject to the ultimate authority of the Board of Trustees and yet this does not preclude them from holding managerial or supervisory status.

Section 2(11), in defining a supervisor, expressly includes those who have the power "effectively to recommend" any of the enumerated actions. Obviously then, the section contemplates a review by some higher authority.[19] In another context we have al-

---

[18] The Board has also relied on this ground for denial of supervisory and managerial status to faculty in *Northeastern University, supra; University of Miami, supra; New York University, supra; Adelphi University, supra; C.W. Post Center of Long Island University, supra.*

[19] In the industrial context the Board has deemed to be supervisors those whose recommendations of the actions

ready indicated

> This power to review held by the immediate supervisors of the engineers whose status is at issue does not demonstrate that the latter are not "supervisors" under the Section 2(11) definition. The power to recommend promotion is, of course, not the power actually to promote and consequently *promotion recommendations will always be subject to review by those others who, in fact, have the final power to promote.*

NLRB v. *Metropolitan Life Insurance Co.*, *supra*, at 1177 (emphasis supplied).[20]

Private universities are usually created by charter under the corporation law of the state where they are located. Kahn, *supra*, at 124; see, e.g., N.Y.N.F.P. Corp. Law § 701 (McKinney's Supp. 1976). Hence, invariably there will be ultimate authority existing in a Board of Trustees or Directors. H. Oleck, Non-Profit Corporations, Organizations and Associations 300, 622 (1965). If this factor alone is to preclude full-time faculty members from assuming managerial or supervisory status, no matter what their actual involvement in the governance of an educational institution, then it is difficult to contemplate *any situation* where the statutory and Board-created exemp-

---

designated in section 2(11), although reviewed by higher authority, were consistently given effect. E.g., *Transformer Engineers*, 114 N.L.R.B. 1325, 1327 (1955).

[20] See also, e.g., *Amalgamated Local 355* v. *NLRB*, 481 F.2d 996, 999-1000 (2d Cir. 1973); *Eastern Greyhound Lines* v. *NLRB*, 337 F.2d 84, 86 (6th Cir. 1964); *NLRB* v. *Southern Airways Co.*, 290 F.2d 519, 524 (5th Cir. 1961).

tions can be applied. Of course, it may well be that at other institutions the Boards of Trustees have in fact regularly reviewed and rejected faculty recommendations, but this is not the case at Yeshiva.

IV

We are urged by the Board that its factual findings as to employee status are entitled to great weight and are not lightly set aside. *Stop & Shop Companies, Inc.* v. *NLRB*, 548 F.2d 17, 18 (1st Cir. 1977); *NLRB* v. *Monroe Tube Co., Inc.*, 545 F.2d 1320, 1325 (2d Cir. 1976); *Amalgamated Local 355* v. *NLRB*, *supra*, at 100; *NLRB* v. *Metropolitan Life Insurance Co.*, *supra*, at 1172. Thus, a Board determination that an individual is an employee under the Act will stand if it has warrant in the record and a reasonable basis in the statute. E.g., *Bayside Enterprises, Inc.* v. *NLRB*, 429 U.S. 298 (1977); *NLRB* v. *Hearst Publications*, 322 U.S. 111, 131 (1944).[21] However, with respect to the status of full-time faculty the Board here has made no factual findings which would preclude supervisory or managerial status, nor has the Board advanced any persuasive rationale for refusing to so categorize Yeshiva's faculty.

The Board concedes, in effect, the substantial impact of the full-time faculty both as supervisors and

---

[21] Closer scrutiny of the Board's determinations, however, will result where, as here, the Board has acted inconsistently with prior rulings in reaching its decision. See *Niagara University* v. *NLRB*, 558 F.2d 1116, 1118 (2d Cir. 1977); B. Schwartz, Administrative Law §§ 235-36 (1976).

managers. Its denial of this status, as we have pointed out in Part III of this opinion, is based upon its continuing position, without further exposition, that full-time faculty are merely professional employees under section 2(12) of the Act. But this offers no solution to the problem since prior Board holdings and judicial opinions clearly indicate that the professional may also be supervisory or managerial. The Board has also insisted that since the faculty act collectively, they must be denied supervisory or managerial status. While there may be some arguable warrant for this position on their status as supervisors in the wording of section 2(11), there is no reason in precedent or logic why this factor should be held to preclude managerial status for full-time faculty.

Oddly, the Board also found that department chairmen and faculty who serve on the Committee on Academic Priorities and Resource Allocation and on the University Faculty Review Committee were neither supervisors nor managers because they serve "primarily as instruments of the faculty" in these matters. If we accept the Board's argument that these chairmen and faculty committee members are simply instruments of the faculty, the Board is in the inconsistent position of finding that the full-time faculty at Yeshiva manages or supervises effectively by its collective or collegial action although this is the very process the Board utilizes to disqualify them as supervisors or managers. Another apparent contradiction is the Board's recognition of the ultimate

authority of the Board of Trustees of Yeshiva although this body only acts collectively. Indeed, on the record here the "ultimate authority" of the trustees has little, if any, practical effect since, as at most universities, McHugh, *supra*, at 68; Statement, *supra*, at 376-77, the trustees' authority has been delegated to the faculty and administration.

It is clear that the Congress, when it amended the Act in 1947, had no contemplation that it would be applied to professional faculties in private institutions of higher learning.[22] Their governance is unique and has no counterpart in the commercial business models the Act was designed to regulate.[23] Absent a legislative amendment, it would seem that an appropriate method to explore fully the special problems created by the Board's assumption of jurisdiction here would be by rule-making. See *Trustees of Bos-*

---

[22] The legislative history of section 2(12) mentions its applicability to lawyers, engineers, and medical personnel. There is no reference to college or university faculty. H.R. Conf. Rep. No. 510, 80th Cong., 1st Sess. 36 (1947). See also *NLRB* v. *Wentworth Institute*, *supra*, at 554-55 (finding the legislative history of the Act inconclusive as to whether Congress specifically intended to exclude nonprofit educational institutions from Board jurisdiction). Prior to its decision in *Cornell University*, 183 N.L.R.B. 329 (1970), the Board had refused to assert jurisdiction over nonprofit educational institutions. *Trustees of Columbia University*, 97 N.L.R.B. 424 (1951).

[23] *Adelphi University*, *supra*, at 648; Kadish, The Theory of the Profession and Its Predicament, 58 A.A.U.P. Bull. 120, 122 (1972); Kahn, *supra*, at 69-74, 84-86. See also *Trustees of Boston University* v. *NLRB*, *supra*, slip op. at 7-8.

ton University v. *NLRB*, *supra*, slip op. at 8; *NLRB* v. *Wentworth Institute*, *supra*, at 556. Both the American Association of University Professors (which has filed an *amicus curiae* brief here) and the Association of American Universities have requested the Board to institute a rule-making proceeding to guide the determination of issues in representation cases involving faculty members of colleges and universities. On July 16, 1971 the Board denied the petition, stating in part, "The Board believes that to adopt inflexible rules for units of teaching employees at this time might well introduce too great an element of rigidity and prevent the Board from adapting its approach to a highly pluristic and fluid set of conditions." Quoted in Kahn, *supra*, at 88.

The Board here has argued that each case must rest on its own facts. However, in its adjudicative process the Board has consistently applied the rigid criteria we have discussed. In any event, in this case the facts compel the conclusion under long established standards that the full-time faculty has managerial status, and as the Supreme Court indicated in *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc.*, *supra*, at 289, the Board is not now free "to read a new and more restrictive meaning into the Act." We find here that the Board, for the reasons given, has applied unjustified, arbitrary standards and therefore we refuse to enforce the Board's order. See *Niagara University* v. *NLRB*, *supra*.

APPENDIX B

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the thirty-first day of July —, one thousand nine hundred and seventy-eight.

Present:

HON. J. EDWARD LUMBARD

HON. WILLAM H. MULLIGAN

HON. WILLIAM H. TIMBERS
Circuit Judges.

77-4182

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY, RESPONDENT

YESHIVA UNIVERSITY FACULTY ASSOCIATION, INTERVENOR.

An application to enforce an order of the National Labor Relations Board.

This cause came to be heard on a certified list of items comprising the record of the National Labor Relations Board and was argued by counsel.

Upon consideration thereof, it is hereby ordered, adjudged and decreed that the application for enforcement be and it hereby is denied in accordance with the opinion of this court with costs to be taxed against the petitioner.

A. DANIEL FUSARO,
Clerk

By /s/ Sara Piovia
Deputy Clerk

APPENDIX C

JPM

D—2484
New York, N.Y.

UNITED STATES OF AMERICA
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

Case 2—CA—14697

YESHIVA UNIVERSITY

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION

DECISION AND ORDER

Upon a charge filed on February 4, 1977, by Yeshiva University Faculty Association, herein called the Union, and duly served on Yeshiva University, herein called the Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 2, issued a complaint and notice of hearing on February 22, 1977, against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge, complaint, and notice of hearing before an Administrative Law Judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges in substance that on or about December 29, 1976, following a Board election in Case 2—RC—16662 the Union was duly certified as the exclusive collective-bargaining representative of Respondent's employees in the unit found appropriate; [1] and that, commencing on or about January 7, 1977, and at all times thereafter, Respondent has refused, and continues to date to refuse, to bargain collectively with the Union as the exclusive bargaining representative, although the Union has requested and is requesting it to do so. On March 7, 1977, Respondent filed its answer to the complaint admitting in part, and denying in part, the allegations in the complaint.

On March 21, 1977, and on April 1, 1977, respectively, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment and issuance of Decision and Order and a further petition for summary judgment and Decision and Order. Subsequently, on April 8, 1977, the Respondent filed a statement in opposition to petition for summary judgment. On April 12, 1977, the Board issued an

[1] Official notice is taken of the record in the representation proceeding, Case 2—RC—16662, as the term "record" is defined in Secs. 102.68 and 102.69(g) of the Board's Rules and Regulations, Series 8, as amended. See *LTV Electrosystems, Inc.*, 166 NLRB 938 (1967), enfd. 388 F.2d 683 (C.A. 4, 1968); *Golden Age Beverage Co.*, 167 NLRB 151 (1967), enfd. 415 F.2d 26 (C.A. 5, 1969); *Intertype Co.* v. *Penello*, 269 F.Supp. 573 (D.C.Va., 1967); *Follett Corp.*, 164 NLRB 378 (1967), enfd. 397 F.2d 91 (C.A. 7, 1968); Sec. 9(d) of the NLRA, as amended.

order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent thereafter filed a response to Notice To Show Cause entitled "Further Statement in Opposition to Petition for Summary Judgment and Response to Notice To Show Cause."

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

In its answer to the complaint, opposition to the Motion for Summary Judgment, and response to the Notice To Show Cause, the Respondent essentially attacks the Board's unit determination in the underlying representation case and, accordingly, the validity of the certification of the Union as the exclusive bargaining representative of the employees in that unit. The General Counsel contends, in effect, that the denials and affirmative defenses set forth in the Respondent's answer raise no issues which have not been litigated and determined by the Board in the prior representation proceeding, Case 2—RC—16662, and that there are no issues requiring a hearing. We agree with the General Counsel.

Our review of the record herein, including that in the representation proceeding, Case 2—RC—16662,

shows that, following a hearing before a Board Hearing Officer on the status of certain faculty personnel, the case was transferred to the Board for decision. Respondent and the Union filed with the Board briefs in support of their respective positions. On December 5, 1975, the Board issued a Decision and Direction of Election [2] in which it concluded, *inter alia*, that the unit consisting of all full-time faculty members, excluding part-time faculty and certain other faculty classifications, was appropriate, as they were neither supervisors nor managerial employees but professional employees. Accordingly, the Board directed an election in that unit. An election by mail and manual balloting was conducted between November 16 and December 20, 1976. A majority of the eligible voters cast ballots for the Union and, in the absence of objections to conduct affecting the election results, the Union was certified by the Regional Director on December 29, 1976.

In its submissions, Respondent contends that the Board's Decision and Direction of Election disregarded uncontroverted evidence, countenanced abnormally high supervisory ratios, applied an unjustified "ultimate authority" and "shared responsibility" rationale and a baseless quantitative 50-percent test to the qualitative definition of supervisor embodied in Section 2(11), and ignored the principles dealing with managerial employees enunciated in *Textron*,[3] in

[2] 221 NLRB 1053.

[3] *N.L.R.B.* v. *Bell Aerospace Company, Division of Textron, Inc.*, 416 U.S. 267 (1974).

ruling, *inter alia*, that all full-time faculty members, department chairmen and related titles, committee members and other miscellaneous supervisors are not managerial or supervisory personnel under Section 2(11) but are professional employees under Section 2(12) of the Act. Further, Respondent alleges that, by permitting the participation of supervisory and managerial personnel in the election, the Board itself destroyed the laboratory conditions thereof; that the Board allowed the extent of organization to be controlling when it excluded regular part-time faculty members from the appropriate bargaining unit in violation of Section 9(c)(5) of the Act; that by so excluding the regular part-time faculty members without first conducting a rulemaking proceeding pursuant to the Administive Procedure Act the Board violated its obligations under that act; and that the Board abused its discretion by including terminal faculty members in the bargaining unit. We find no merit in these contentions.

Except for the contention that the Board should have engaged in rulemaking before excluding from the unit regular part-time faculty, Respondent is attempting to raise again and relitigate issues which were, or could have been, raised and litigated in the representation case [4] and this it may not do. Further,

[4] The Board found that the arguments raised by Respondent in the representation case proceeding were similar to those considered and rejected by the Board in several earlier decisions. *Northeastern University*, 218 NLRB 247 (1975); *University of Miami*, 213 NLRB 634 (1974); *New York Univer-*

we find no merit in Respondent's contention that the Board contravened the Administrative Procedure Act by excluding regular part-time faculty members from the appropriate unit without first conducting a rule-making proceeding pursuant thereto. It is well established that adjudicated cases may serve as precedent, and that the Board may apply those precedents [5] to the parties in an adjudicatory proceeding.[6]

It is well settled that in the absence of newly discovered or previously unavailable evidence or special circumstances a respondent in a proceeding alleging a violation of Section 8(a)(5) is not entitled to relitigate issues which were or could have been litigated in a prior representation proceeding.[7]

All issues raised by Respondent in this proceeding were or could have been litigated in the prior representation proceeding, and Respondent does not offer to adduce at a hearing any newly discovered or previously unavailable evidence, nor does it allege that

---

sity, 205 NLRB 4 (1973); *Adelphi University*, 195 NLRB 639 (1972); *Fordham University*, 193 NLRB 134 (1971); *C. W. Post Center of Long Island University*, 189 NLRB 904 (1971); *Yeshiva University*, 221 NLRB 1053, 1054, fns. 5 and 6 (1975).

[5] *New York University, supra*, and *University of San Francisco*, 207 NLRB 12 (1973).

[6] *N.L.R.B.* v. *Wyman-Gordon Co., et al.*, 394 U.S. 759 (1969).

[7] See *Pittsburgh Plate Glass Co.* v. *N.L.R.B.*, 313 U.S. 146, 162 (1941); Rules and Regulations of the Board, Secs. 102.67(f) and 102.69(c).

any special circumstances exist herein which would require the Board to reexamine the decision made in the representation proceeding. We therefore find that Respondent has not raised any issue which is properly litigable in this unfair labor practice proceeding.[8] We shall, accordingly, grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

Findings of Fact

I. The Business of the Respondent

Respondent is a private institution of higher education chartered under the State of New York. It maintains offices and educational facilities in the city and State of New York, Borough of Manhattan. During the past year, a representative period, Respondent derived gross revenues from its operations in excess of $1 million from sources other than donations and restricted contributions, of which amounts in

---

[8] Respondent has denied the allegations of the complaint concerning the request and refusal to bargain. Attached to the General Counsel's further petition are Exhs. K, L, and M which show that by letter dated January 5, 1977, received on January 7, 1977, the Union requested Respondent to bargain and that previously, by letter dated December 27, 1976, Respondent expressed its intention to obtain legal review of the Union's certification in the courts. The contents of these exhibits which are uncontroverted establish, and the Board finds, that on January 7, 1977, the Union requested and Respondent refused to bargain. See *Paramount General Hospital, Inc.*, 223 NLRB 1017, 1019, fn. 8 (1976).

excess of $50,000 were derived from sources located outside the State of New York.

We find, on the basis of the foregoing, that Respondent is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. The Labor Organization Involved

Yeshiva University Faculty Association is a labor organization within the meaning of Section 2(5) of the Act.

III. The Unfair Labor Practices

A. *The Representation Proceeding*

1. The unit

The following employees of the Respondent constitute a unit appropriate for collective-bargaining purposes within the meaning of Section 9(b) of the Act:

> All full-time faculty members appointed to the University in the titles of professor, associate professor, assistant professor, instructor, or any adjunct or visiting thereof, department chairmen, division chairmen, senior faculty and assistant deans who are employed by the Employer at its Campus, exclusive of faculty at Albert Einstein College of Medicine, Sue Golding Graduate School of Medical Sciences, Yeshiva High School, Rabbi Isaac Elchanan Theological Seminary, Cantorial Training Institute, Community Service Division, and Sephardic Community Activities Program; part-time faculty; lecturers; principal investigators; deans, acting deans and directors; faculty whose initial and subsequent appointment is subject to special funding derived in the main from non-University funds or whose initial or subsequent appointment is in connection with special projects; the Registrar; visiting professors (with effective faculty appointments at other academic institutions); librarians; research assistants; research associates; emeritus faculty not actively engaged in teaching at the University; officers of the University; all other administrative and support personnel; guards, and all supervisors as defined in Section 2(11) of the Act.

2. The certification

On December 20, 1976, a majority of the employees of Respondent in said unit, in a secret ballot election conducted under the supervision of the Regional Director for Region 2, designated the Union as their representative for the purpose of collective bargaining with Respondent. The Union was certified as the collective-bargaining representative of the employees in said unit on December 29, 1976, and the Union continues to be such exclusive representative within the meaning of Section 9(a) of the Act.

B. *The Request To Bargain and Respondent's Refusal*

Commencing on or about January 7, 1977, and at all times thereafter, the Union has requested Respondent to bargain collectively with it as the exclusive collective-bargaining representative of all the employees in the above-described unit. Commencing on or about January 7, 1977, and continuing at all times thereafter to date, Respondent has refused, and continues to refuse, to recognize and bargain with the Union as the exclusive representative for collective bargaining of all employees in said unit.[9]

Accordingly, we find that Respondent has, since January 7, 1977, and at all times thereafter, refused to bargain collectively with the Union as the exclusive representative of the employees in the appropriate unit, and that, by such refusal, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

IV. The Effect of the Unfair Labor Practices Upon Commerce

The activities of Respondent set forth in section III, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to

[9] See fn. 8, *supra*.

labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act, we shall order that it cease and desist therefrom, and, upon request, bargain collectively with the Union as the exclusive representative of all employees in the appropriate unit, and, if an understanding is reached, embody such understanding in a signed agreement.

In order to insure that the employees in the appropriate unit will be accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of certification as beginning on the date Respondent commences to bargain in good faith with the Union as the recognized bargaining representative in the appropriate unit. See *Mar-Jac Poultry Company, Inc.*, 136 NLRB 785 (1962); *Commerce Company d/b/a Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (C.A. 5, 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Company*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (C.A. 10, 1965).

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

Conclusions of Law

1. Yeshiva University is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Yeshiva University Faculty Association is a labor organization within the meaning of Section 2(5) of the Act.

3. All full-time faculty members appointed to the University in the titles of professor, associate professor, assistant professor, instructor, or any adjunct or visting thereof, department chairmen, division chairmen, senior faculty and assistant deans who are employed by the Employer at its Campus, exclusive of faculty at Albert Einstein College of Medicine, Sue Golding Graduate School of Medical Sciences, Yeshiva High School, Rabbi Isaac Elchanan Theological Seminary, Cantorial Training Institute, Community Service Division, and Sephardic Community Activities Program; part-time faculty; lecturers; principal investigators; deans, acting deans and directors; faculty whose initial and subsequent appointment is subject to special funding derived in the main from non-University funds or whose initial or subsequent appointment is in connection with special projects; the Registrar; visiting professors (with effective faculty appointments at other academic institutions); librarians; research assistants; research associates; emeritus faculty not actively engaged in teaching at the University; officers of the University; all other administrative and support personnel;

guards, and all supervisors as defined in Section 2(11) of the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

4. Since December 29, 1976, the above-named labor organization has been and now is the certified and exclusive representative of all employees in the aforesaid appropriate unit for the purpose of collective bargaining within the meaning of Section 9(a) of the Act.

5. By refusing on or about January 7, 1977, and at all times thereafter, to bargain collectively with the above-named labor organization as the exclusive bargaining representative of all the employees of Respondent in the appropriate unit, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) of the Act.

6. By the aforesaid refusal to bargain, Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing, employees in the exercise of the rights guaranteed to them in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Rela-

tions Board hereby orders that Respondent, Yeshiva University, New York, New York, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment with Yeshiva University Faculty Association as the exclusive bargaining representative of its employees in the following appropriate unit:

> All full-time faculty members appointed to the University in the titles of professor, associate professor, assistant professor, instructor, or any adjunct or visting thereof, department chairmen, division chairmen, senior faculty and assistant deans who are employed by the Employer at its Campus, exclusive of faculty at Albert Einstein College of Medicine, Sue Golding Graduate School of Medical Sciences, Yeshiva High School, Rabbi Isaac Elchanan Theological Seminary, Cantorial Training Institute, Community Service Division, and Sephardic Community Activities Program; part-time faculty; lecturers; principal investigators; deans, acting deans and directors; faculty whose initial and subsequent appointment is subject to special funding derived in the main from non-University funds or whose initial or subsequent appointment is in connection with special projects; the Registrar; visiting professors (with effective faculty appointments at other academic institutions); librarians; research assistants; research associates; emeritus faculty not actively engaged in teaching at the University; officers of the University; all other administrative and support personnel; guards, and all supervisors as defined in Section 2(11) of the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain with the above-named labor organization as the exclusive representative of all employees in the aforesaid appropriate unit with respect to rates of pay, wages, hours, and other terms and conditions of employment, and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Post at its offices and educational facilities in New York, New York, copies of the attached notice marked "Appendix."[10] Copies of said notice, on forms provided by the Regional Director for Region 2, after being duly signed by Respondent's representative, shall be posted by Respondent immediately

---

[10] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 2, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith.

Dated, Washington, D.C. August 24, 1977

Howard Jenkins, Jr., Member

John A. Penello, Member

Betty Southard Murphy, Member

[SEAL]

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT refuse to bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment with Yeshiva University Faculty Association as the exclusive representative of the employees in the bargaining unit described below.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, upon request, bargain with the above-named Union, as the exclusive representative of all employees in the bargaining unit described below, with respect to rates of pay, wages, hours, and other terms and conditions of employment, and, if an understanding is reached, embody such understanding in a signed agreement. The bargaining unit is:

> All full-time faculty members appointed to the University in the titles of professor, associate professor, assistant professor, instructor, or, any adjunct or visiting thereof, department chairmen, division chairmen, senior faculty and assistant deans who are employed by the Employer at its Campus, exclusive of faculty at Albert Ein-

stein College of Medicine, Sue Golding Graduate School of Medical Sciences, Yeshiva High School, Rabbi Isaac Elchanan Theological Seminary, Cantorial Training Institute, Community Service Division, and Sephardic Community Activities Program; part-time faculty; lecturers; principal investigators; deans, acting deans and directors; faculty whose initial and subsequent appointment is subject to special funding derived in the main from non-University funds or whose initial or subsequent appointment is in connection with special projects; the Registrar; visiting professors (with effective faculty appointments at other academic institutions); librarians; research assistants; research associates; emeritus faculty not actively engaged in teaching at the University; officers of the University; all other administrative and support personnel; guards, and all supervisors as defined in Section 2(11) of the Act.

YESHIVA UNIVERSITY
(Employer)

Dated ——— By ———————————
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 36th Floor—Federal Building, 26 Federal Plaza, New York, New York 10007, Telephone 212—264-0360.

APPENDIX D

Yeshiva University and Yeshiva University Faculty Association, Petitioner. Case 2—RC—16662

December 5, 1975

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN MURPHY AND MEMBERS JENKINS AND PENELLO

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Clifford P. Chaiet. Pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, and by direction of the Regional Director for Region 2, this case was transferred to the National Labor Relations Board for decision. Thereafter, the Employer and the Petitioner filed briefs in support of their respective positions.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the rulings of the Hearing Officer made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. Yeshiva University, also referred to herein as the Employer or the University, is a private institution of higher education chartered under the laws of the State of New York. Its offices and educational facilities are located on four campuses in New York, New York.[1] During the past year the University derived gross income in excess of $1,000,000 from sources other than donations and restricted contributions. At least $50,000 of this income was derived directly from sources located outside the State of New York. Based on the foregoing stipulated facts, we find that the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the policies of the Act to assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.[2]

---

[1] The University is composed of 12 schools and colleges and a number of programs. These are as follows: Yeshiva College, Bernard Revel Graduate School (whose summer session is known as the Harry Fischel School), James Striar School of General Jewish Studies, Wurzweiler School of Social Work, Stern College for Women, Erna Michael College for Hebraic Studies, Teachers Institute for Women, Ferkauf Graduate School of Humanities and Social Sciences, Belfer Graduate School of Science, Albert Einstein College of Medicine, Sue Golding Graduate School of Medical Sciences, Rabbi Isaac Elchanan Theological Seminary, Community Service Division, Cantorial Training Institute, Sephardic Studies Program, Yeshiva Program, and Sephardic Community Action Program.

[2] The Employer took the position that the Petitioner and its component bodies, the Faculty Associations of the Belfer Graduate School of Science, the Ferkauf Graduate School of

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The Yeshiva University Faculty Association herein referred to as the Petitioner or YUFA seeks to represent a unit including all faculty appointed to the University in the titles of professor, associate professor, assistant professor, instructor with a full-time teaching load or the equivalent, excluding part-time faculty, lecturers, faculty of the Albert Einstein College of Medicine, the Sue Golding Graduate School of Medical Sciences, the Yeshiva High School, the Rabbi Isaac Elchanan Theological Seminary, the Cantorial Training Institute, the Community Service

---

Humanities and Social Sciences, and the Yeshiva College, were formed by supervisory employees of the University thereby taking the organization outside of the definition of a labor organization as stated in the Act. However, it is clear from the record that the Petitioner is an organization "in which employees participate" and which exists for the purpose of bargaining collectively with the Employer. The Petitioner thus meets the definition of "labor organization" set forth in Sec. 2(5) of the Act. Further, it is clear that the Petitioner was organized primarily by faculty found, *infra*, to be non-supervisory employees. The participation in the organizational effort by three principal investigators, found to be supervisors, *infra*, does not remove Petitioner from the definition of a labor organization in light of substantial employee participation in the Petitioner. *Directors Guild of America, Inc. (Association of Motion Picture & Television Producers, Inc.)*, 198 NLRB 707 (1972). We also note that questions relating to showing of interest are not litigable in representation proceedings. *Tappan Division of Tappan Incorporated*, 193 NLRB 989 (1971).

Division, the Sephardic Community Activities Program, the James Striar School, the Teachers Institute for Women, and the Sephardic Studies Program, librarians, research associates, research assistants, visiting faculty whose employment at the University is for a fixed 1-year period and who are faculty members at another academic institution, emeritus faculty who are not actively engaged in teaching at the University, faculty whose initial and subsequent appointment is subject to special funding derived in the main from nonuniversity funds, deans and acting deans, directors, the Registrar, and other officers of the University.[3]

The Employer initially takes the position that all faculty members of the University are managerial or supervisory personnel and are therefore not employees within the meaning of the Act. In the alternative, the Employer seeks a unit of all full-time and regular part-time faculty members.[4] The Employer would exclude from this unit as managerial and/or supervisory, department chairmen and their concomitants,

[3] At the close of the hearing, the Petitioner indicated that it did not seek to represent faculty at the University's Teachers Institute for Women, herein referred to as Teachers, inasmuch as the professors at Teachers labeled "full-time" by the University do not hold faculty appointments but are actually part-time faculty.

[4] Under the University's definition, part-time (that is, half the normal full-time load of 12 hours) would include the faculty members teaching at least 6 hours in the semester in which the election is held and in both semesters of the preceding 3 academic years.

members of the University's committee on academic priorities and resource allocation and the faculty review committee, assistant deans, principal investigators of research and training grants, faculty who have as of date of the election, received notice that their appointment will be terminated or will not be renewed, have notified the University that they intend to resign, or have reached the University's mandatory retirement age. The Employer would not exclude, as would the Petitioner, full-time faculty whose appointments are subject to funding from research grants or from other nonuniversity sources, faculty with the rank of "lecturer," and faculty at Teachers. The Employer does not disagree with the other exclusions sought by the Petitioner.

In contending that no faculty bargaining unit can be appropriate because all faculty members—by virtue of their group participation in faculty governance—are supervisory or managerial and are, thereby, not employees within the meaning of the Act, the Employer requests that the Board reconsider its previous decisions on this issue.[5] The Employer urges, further, that, in any event, the Board reach a contrary result herein on the ground that this particular faculty has authority which is different from and more extensive than the authority vested in the faculties which were the subjects of the earlier cases.

[5] *Northeastern University*, 218 NLRB No. 40 (1975); *University of Miami*, 213 NLRB 634 (1974); *Adelphi University*, 195 NLRB 639 (1972); *Fordham University*, 193 NLRB 134 (1971); and *C. W. Post Center of Long Island University*, 189 NLRB 904 (1971).

We find from our examination of the record, however, that the role and authority of the faculty herein with respect to hiring, promotion, salary increases, the granting of tenure, and other areas of governance are not significantly different from what they were in the cited cases,[6] wherein the same arguments were rejected. At Yeshiva University, faculty participation in collegial decision making is on a collective rather than individual basis, it is exercised in the faculty's own interest rather than "in the interest of the employer,"[7] and final authority rests with the board of trustees. As in the earlier decisions, we find that the faculty members are professional employees under the Act who are entitled to vote for or against collective-bargaining representation.

Unit Composition

Part-time faculty: The Petitioner would exclude, while the Employer would include, part-time faculty members. For the reasons set forth in our decisions in *New York University, supra,*[8] and *University of*

[6] See fn. 5, *supra.* See also *New York University,* 205 NLRB 4 (1973).

[7] Sec. 2(11) of the Act.

[8] The Employer argues that application of the factors relied on by the Board in *New York University* requires the inclusion of regular half-time faculty members here. However, while there is some involvement of part-time faculty in issues of curriculum and standards in the Jewish Studies Programs, for the most part the part-time faculty, by both regulation and practice, play a significantly lesser role in student and faculty affairs at the University than do full-time faculty. The record herein amply demonstrates a lack of mutuality of interest between the part-time and full-time faculty at Yeshiva University similar to that requiring exclusion of part-time faculty in *New York University* and *University of San Francisco.*

San Francisco, 207 NLRB 12 (1973), we shall exclude part-time faculty from the bargaining unit found appropriate herein.[9]

Members of committee on academic priorities and resource allocation and faculty review committee: The Employer contends that members of these committees have substantial managerial and supervisory powers and must, therefore, be excluded from the unit. The record, however, demonstrates that the faculty members on each of the two committees are *elected by the faculty* and serve as representatives of the faculty rather than of management. As we have found, *supra,* authority exercised by the faculty as a group on the basis of collective discussion and consensus is not sufficient to render the individual members of

[9] The record indicates that there are currently no faculty members at Teachers holding full-time appointments with the University; rather the faculty listed by Teachers as teaching a full 12-hour load are, in fact, part-time faculty without University appointment. Accordingly, such part-time faculty members are not eligible to vote in the election. However, as there is no basis for excluding from the unit any full-time faculty members at Teachers should any such University appointments be made in the future, faculty at Teachers holding full-time appointments with the University will be included in the unit. As the faculty in the title "lecturer" work part-time, employees in that classification are excluded from the unit as part-time employees.

such group supervisors within the meaning of the Act.[10] We therefore find that the several members of the two above-named committees are not supervisory or managerial representatives of the University, and we shall include them in the bargaining unit.

Department chairmen, division chairmen, and senior faculty: The Employer contends that the department chairmen and their concomitants are managerial and/or supervisory employees and, as such, must be excluded from the bargaining unit. The Petitioner asserts that the department chairmen and senior faculty do not qualify as supervisory or managerial and seeks their inclusion in the unit.

As in the *University of Miami, supra*, department chairmen are generally appointed by the dean of their school or college, after consultation with the departmental faculty concerned—whose recommendation is usually, although not always, followed. Indeed, at Belfer, Revel, Ferkauf, and Yeshiva College, the department or division chairmen are actually *elected* by the faculty of their respective departments or divisions. Further, department chairmen have been subject to recall several times by their faculty membership.

The chairmen have regular faculty appointments and teach classes. It appears from the record that they do not receive any extra pay or stipend as chairmen, but they do have their teaching obligations somewhat reduced in many cases.

---

[10] *Adelphi University*, 195 NLRB 639, 648 (1972); *C. W. Post Center of Long Island University, supra.*

Belfer's Dean Koman testified that department chairmen at Belfer recommend faculty salaries to the dean but such salaries are subject to approval by the vice president of the University, and individual faculty members can and have gone directly to the president of the University to adjust the recommended figures. The recommendations, arrived at by a consensus of the department members, as to hiring, firing, or granting tenure are relayed through the chairmen.

The dean at Erna Michael testified that when a new faculty member is needed, he approaches the "senior professor," if there is one for the subject area involved, or a number of other faculty people if there is no senior professor, and asks if they know of anyone. Another source is letters or requests for positions received by the dean or "any other of the well-known members of the faculty." According to the dean's testimony, if a particular application looks good or if a faculty member has someone in mind, the dean asks the faculty member to interview the person in question; about 50 percent of the time the dean also participates in the initial paper screening and sometimes participates in the interviews.

Rabbi Besdin, Director of Striar, testified that the two department chairmen were chosen with the consensus of faculty and that other faculty, as well as department chairmen, may play a consultative role regarding hiring.

The testimony of Dean Gittler of Ferkauf indicates that recommendations on hiring come from the consensus of the department through the chairman.

Wurzweiler has no "chairmen" or "senior professors." The Employer argues that the convenors, the chairman of the admissions committee, the field instruction coordinator, and the chairman of the doctoral committee perform many of the supervisory and managerial duties of the school. The record indicates that the primary duties of these personnel involve, respectively, coordination of teaching approaches in each division, direction of students' admission, selection of social agencies for placement of students (a responsibility delegated by the faculty), and establishment of requirements for the doctorate degree.

Rabbi Landman of Revel testified that the department chairman's recommendations on the hiring of full-time and part-time faculty members appear to be arrived at by consensus of the department faculty.

The testimony of Dean Mirsky of Stern indicates that he has consulted with Stern's chairmen and generally obtained the approval of the department chairmen before submitting recommendations to the president with regard to the hiring of new employees and the reappointment of faculty. Dean Mirsky has, however, acted contrary to a department chairman's recommendation, and the chairmen do not have the authority to effectuate a reappointment denied by the dean.

According to Dean Bacon of Yeshiva College, the division chairmen, who are elected by the faculty of the particular division, make up the advisory council to the dean. Collectively they deliberate and recommend, through the chairman of the division involved, action on such matters as promotions and sabbaticals. The senior faculty at Yeshiva College, faculty members with the most seniority in each subject area,[11] review applicants for faculty positions and recommend the most outstanding to Dean Bacon, who makes an independent review of the applicants' qualifications before referring such recommendations to the president.

As with the final authority to appoint and reappoint, exclusive authority for the granting of tenure is vested in the president. The record does not indicate that department chairmen play a significant role in this process. The departments at Belfer collectively make tenure recommendations which Dean Koman passes on to the president; the dean at Wurzweiler, individually, makes the recommendations to the president. At Ferkauf, a council of all tenured faculty considers award of tenure, but the dean chairs the council and retains, and has exercised, veto power over its recommendations.

The Board has considered many factors in determining whether department chairmen should be included in a unit of faculty. One of the crucial factors is the role of the chairmen in faculty personnel decisions such as hiring, firing, and other changes of status. In appropriate cases where the chairman's authority has been effectively diffused among the de-

---

[11] The subject areas at Yeshiva College are organized in broad "divisions."

partment faculty pursuant to the principle of collegiality, the Board has included the chairmen.[12] The record in the present case demonstrates that the department chairmen, division chairmen, and senior faculty at Yeshiva fall within this qualification.

On the record before us, it appears that, although they have certain formal responsibilities with respect to decisions on such matters as appointment, promotion, and tenure, the department chairmen and their concomitants act primarily as instruments of the faculty in these matters. The department chairmen, in these respects, therefore stand largely on the same footing as the faculty, from whom they receive their authority. All major recommendations, including hiring, appear to be done on a collegial basis. Further, as previously noted, the department chairmen at Yeshiva receive no additional remuneration for assuming the position of chairman.

Accordingly, we find that the department chairmen, division chairmen, and senior faculty are neither supervisors nor managerial employees and shall include them in the unit.[13]

Assistant deans: The Petitioner seeks to include in the unit the two assistant deans, Patt at Belfer and Wischnitzer at Yeshiva College. The Employer would exclude them as supervisory and/or managerial. It

[12] *Northeastern University, supra.*

[13] *Northeastern University, supra; Fordham University,* 214 NLRB No. 137 (1974); *University of Miami, supra; New York University, supra.*

does not appear from the record that they are ever delegated the supervisory authority possessed by the deans under whom they serve.[14]

Both of the assistant deans hold faculty appointments, are paid in the faculty classifications and fulfill teaching responsibilities within the academic departments with which they are affiliated. Further, the assistant dean at Belfer has been elected by the faculty to serve as faculty representative on several committees.

Based on the foregoing we find that the assistant deans are neither supervisors nor managerial employees.[15] Accordingly, we shall include them in the bargaining unit herein.[16]

Terminal faculty members: As noted, *supra*, the Employer seeks to exclude faculty resignees, terminees, and retirees.[17] Petitioner seeks inclusion of these

[14] Although Dean Komar testified that Assistant Dean Patt "replaces" him during Komar's absences, there is no testimony indicating that during such time Patt was empowered to make any determinations with regard to hiring, firing, promotions, tenure, or any other change in status or to exercise any other supervisory or managerial function.

[15] *University of Miami, supra.*

[16] Chairman Murphy is of the view that the record in this case is insufficient to make a determination as to whether the assistant deans are supervisors within the meaning of the Act. Accordingly, the Chairman would vote the two assistant deans by challenged ballot.

[17] Upon notice of resignation or termination, the full-time faculty member is expected to continue his employment through and until the end of the academic year. Further, terminations may be appealed, and a faculty member may continue beyond the retirement age on a year-to-year basis with the president's permission.

faculty members. The Employer, recognizing that in previous university cases the Board has uniformly included such employees in faculty bargaining units,[18] urges the Board to reconsider its holding on this issue. After due consideration, we have decided to adhere to our longstanding position with regard to terminal employees, since while their employment continues they have a substantial community of interest with their colleagues. Therefore, faculty members who have received notice that their appointments will be terminated or will not be renewed, have notified the University that they intend to resign, or have reached the University's mandatory retirement age will be eligible to vote in the election herein provided that they are still employed as faculty members at the time of the election.

Principal investigators: The Petitioner seeks to include in the unit principal investigators. The Employer argues that they possess supervisory and managerial authority and must be excluded.

Principal investigators are faculty members who prepare grant proposals and administer the projects once funds have been awarded by government or private agencies.

The principal investigator is responsible, subject only to approval of the deans and University administration, for the hiring of full-time and part-time members of the Yeshiva faculty, research associates,

[18] See *Fordham University, supra; New York University, supra; Manhattan Collge,* 195 NLRB 65 (1972).

research assistants, clerical and other support personnel for work on his project. The record shows that the principal investigator prepares the budget for a grant and sets salaries within broad University guidelines. The record also demonstrates that the principal investigators have the authority to reprimand and terminate the services of all grant employees. Day-to-day supervision of grant employees is also carried out solely by the principal investigator.[19] The principal investigator adjusts the complaints and grievances of the grant employees.

As in *Northeastern University, supra,* all of the employees who work on grants and contracts under the direction of a principal investigator are employees of the University and not of the granting agency. These employees are paid by Yeshiva and receive the fringe benefits available to other employees. Yeshiva makes payroll deductions for grant employees similar to the deductions made for other employees.

In the instant case, as in *Rensselaer Polytechnic Institute,*[20] the employees supervised by the principal investigators are employees of the University, and, therefore, the principal investigators herein are super-

[19] While it is difficult to determine the amount of time actually spent by the principal investigators in grant supervision, the University allocates 50 percent of a principal investigator's time for administration of grants. Further, testimony indicates that "absolutely more than half of the time" has been spent by a principal investigator in the supervision of nonunit employees.

[20] 218 NLRB No. 220 (1975).

visors in their relationship to their Employer.[21] Therefore, we find them to be supervisors within the meaning of the Act and exclude them from the unit found appropriate herein.

Full-time faculty whose appointment is subject to special funding and derived from non-University funds: Contrary to the Employer, the Petitioner would exclude the two faculty members who have been hired primarily to perform research activities under a research grant.

Although listed by the University as full-time faculty (one under the title "Research Assistant Professor") neither of the two faculty members in this category have appointment letters from the president, and they are ineligible for tenure, sabbatical leave, or other perquisites enjoyed by full-time faculty. Further, it appears that their salaries are determined under the grant proposals upon which their employment is dependent.

Under these circumstances, it appears that these two faculty members whose appointment is subject to special funding have a community of interest with the research associates and research assistants, stipulated out of the unit by the parties, rather than with the appointed full-time faculty herein. Accordingly, we shall exclude them from the unit.

---

[21] In *Fordham, supra,* and *New York University, supra,* the principal investigators were found not to be supervisors in their relationship to their employers and were included in the unit. However, in both cases, the employees hired by them were not and did not become employees of the university.

In accordance with the above, we find that the following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time faculty members appointed to the University in the titles of professor, associate professor, assistant professor, instructor, or any adjunct or visiting thereof, department chairmen, division chairmen, senior faculty and assistant deans, but excluding faculty at Albert Einstein College of Medicine, Sue Golding Graduate School of Medical Sciences, Yeshiva High School, Rabbi Isaac Elchanan Theological Seminary, Cantorial Training Institute, Community Service Division, and Sephardic Community Activities Program; part-time faculty; lecturers; principal investigators; deans, acting deans and directors; faculty whose initial and subsequent appointment is subject to special funding derived in the main from non-University funds or whose initial or subsequent appointment is in connection with special projects; the Registrar; visiting professors (with effective faculty appointments at other academic institutions); librarians; research assistants; research associates; emeritus faculty not actively engaged in teaching at the University; officers of the University; all other administrative and support personnel; guards, and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]

APPENDIX E

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C. 151 *et seq.*) are as follows:

SEC. 2. When used in this Act—

* * * * *

(3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to the Railway Labor Act, as amended from time to time, or by any other person who is not an employer as herein defined.

* * * * *

(11) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(12) The term "professional employee" means—

(a) any employee engaged in work (1) predominately intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion in judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of higher specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

SEC. 8. (a) It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7 * * * ;

* * * * *

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a) * * * .

* * * * *

☆ U. S. GOVERNMENT PRINTING OFFICE: 1978 278097 203

Supreme Court, U. S.
FILED
DEC 21 1978
MICHAEL RODAK, JR., CLERK

No. 78-857

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

NATIONAL LABOR RELATIONS BOARD,
Petitioner

v.

YESHIVA UNIVERSITY,
Respondent.

BRIEF OF AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, AMICUS CURIAE, IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

WOODLEY B. OSBORNE
1 Dupont Circle, N.W.
Washington, D.C. 20036

Attorney for American Association of University Professors
Amicus Curiae

WILSON · EPES PRINTING CO., INC. · 789-0096 · WASHINGTON, D.C. 20001

TABLE OF CONTENTS

	Page
INTEREST OF AMICUS	1
STATEMENT	3
REASONS FOR GRANTING THE PETITION	4
CONCLUSION	18
APPENDIX	A-1

TABLE OF AUTHORITIES

Cases: Page

Adelphi University, 195 N.L.R.B. 639 (1972) 5, 17
Bell Aerospace Co., On remand, 219 N.L.R.B. 384 (1975) 8, 9, 12
Brewery Workers v. *NLRB*, 298 F.2d 297 (D.C. Cir. 1961), *cert. denied*, 369 U.S. 843 (1962) 14
Cornell University, 183 N.L.R.B. 329 (1970) 4
Ford Motor Co., 66 N.L.R.B. 1317 (1946) 8
Fordham University (I), 193 N.L.R.B. 134 (1971) .. 5
Fordham University (II), 214 N.L.R.B. 971 (1974) 5
General Dynamics Corp., 213 N.L.R.B. 851 (1974) 12
Illinois State Journal Register v. *NLRB*, 412 F.2d 37 (7th Cir. 1969) 8, 17
Mourning v. *NLRB*, 559 F.2d 768 (D.C. Cir. 1977) 17
New York University, 205 N.L.R.B. 4 (1973) 5
NLRB v. *Bell Aerospace Co.*, 416 U.S. 267 (1974) .. 8
NLRB v. *Security Guard Service*, 384 F.2d 143 (5th Cir. 1967) 13
Northeastern University, 218 N.L.R.B. 247 (1975) 5
Retail Clerks International v. *NLRB*, 366 F.2d 642 (D.C. Cir. 1966) 8
Stop & Shop Companies, Inc. v. *NLRB*, 548 F.2d 17 (1st Cir. 1977) 13
Trustees of Boston University v. *NLRB*, 575 F.2d 301 (1st Cir. 1978), *petition for certiorari pending*, No. 78-67 2
Universal Camera Corp. v. *NLRB*, 340 U.S. 474 (1951) 4
University of Miami, 213 N.L.R.B. 634 (1974) 5
Western Electric Co., 100 N.L.R.B. 420 (1952) 16
Westinghouse Electric Corp., 97 N.L.R.B. 127 (1952) 12
Westinghouse Electric Corp., 113 N.L.R.B. 337 (1955) 11

TABLE OF AUTHORITIES—Continued

Statutes: Page

United States Statutes:

National Labor Relations Act, 29 U.S.C. 151 *et seq.*:

Section 2(11), 29 U.S.C. § 152(11) 7, 8
Section 2(12), 29 U.S.C. § 152(12) 11
Section 9(c)(3), 29 U.S.C. § 159(c)(3) 7

State Statutes:

Conn. P.A. 566, L. 1975, §§ 1-11 5
Minn. Stat. §§ 179.61-179.76 (1976 Supp.) 5
N.J. Stat. §§ 34:13A-1 - 34:15A-11 (1976 Supp.) 5
Pa. Stat. tit. 43, §§ 1101.101-1101.2301 (1976 Supp.) 5

Miscellaneous:

Academic Collective Bargaining Information Service, Special Report No. 12, Update, April, 1978.. 4
The Chronicle of Higher Education, June 26, 1978.. 4
Finkin, *The Supervisory Status of Professional Employees*, 45 Fordham L. Rev. 805 (1977) 10, 12
Hearings on Amendments to the National Labor Relations Act Before the House Comm. on Education and Labor, 80th Cong., 1st Sess. (1947).. 12
Hearings on S. 55 and S.J. Res. 22 Before Senate Comm. on Labor and Public Welfare, 80th Cong., 1st Sess. (1947) 12
T. Hungate, MANAGEMENT IN HIGHER EDUCATION (1964) 9
H. Mason, COLLEGE AND UNIVERSITY GOVERNMENT (Tulane Studies in Political Science, Vol. XIV, 1972) 10
Rules and Regulations, National Labor Relations Board 7
S. Rep. No. 105, 80th Cong., 1st Sess. (1947) 13

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD,
Petitioner

v.

YESHIVA UNIVERSITY,
Respondent.

BRIEF OF AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, AMICUS CURIAE, IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

INTEREST OF AMICUS *

The American Association of University Professors is a national professional organization of teachers and research scholars in all disciplines at accredited colleges and universities in the United States. It has approximately 1350 chapters and over 75,000 members in such institutions.

---

* All parties have consented to the filing of this Brief.

A substantial and growing number of the Association's chapters are, with the encouragement and support of the Association, engaged in collective bargaining with the administrations and governing boards of institutions of higher education. A substantial portion of the Association's resources are each year allocated to the support of Association chapters engaged in efforts to organize and engage in collective bargaining under the provisions of the National Labor Relations Act.

If a faculty's collective role in governance matters can deprive it of the protections of the National Labor Relations Act, as held by the court below, both of these activities are threatened. The legal status of ongoing collective bargaining relationships between faculty unions and the administrations and governing boards of privately supported institutions of higher education will remain uncertain if the decision below stands, as will the organizational rights of faculty generally.

The Association's chapter is a party in *Trustees of Boston University* v. *NLRB*, 575 F.2d 301 (1st Cir. 1978), *petition for certiorari pending*, No. 78-67.

STATEMENT

This case reached the court below on the petition of the National Labor Relations Board to enforce its order requiring Yeshiva University to recognize and bargain with the Yeshiva University Faculty Association, which had decisively won a Board-supervised collective bargaining election. The validity of the Board's underlying unit determination decision was challenged by the University. Relying on its conclusion that the faculty at Yeshiva "are, in effect, substantially and pervasively operating the enterprise" (Pet. App. A, 27a), the court of appeals refused to enforce the Board's order. In short, it found that Yeshiva's faculty are managerial or supervisory employees and as such not entitled to the protections of the National Labor Relations Act ("the Act").

Analyzing the governance patterns at each of ten divisions of the University, the court found that the faculty, operating through committees sometimes chaired by administrators and sometimes not,[1] regularly make recommendations to the University administration in a number of important areas: matters relating to the appointment, reappointment, promotion and tenure of their faculty colleagues, curriculum matters, the establishment or revision of admission and degree requirements, grading standards, and, in some cases, tuition levels.[2] The court further found that these faculty recom-

[1] The University's structure and the nature of the faculty's participation in certain matters of University governance are more fully described in the Board's Petition. (Petition, pp. 2-13)

[2] The court of appeals' treatment of these factual issues is illustrated by its findings with regard to the faculty role in tuition matters. The court found that "in particular cases . . . the tuition to be charged [is] *controlled* by the full-time faculty." (Emphasis supplied.) (Pet. App. A, 23a) This finding was based on a single incident in which the Acting Dean of one of Yeshiva's divisions recommended a $500 increase in tuition which was rejected in favor of a

mendations were usually accepted by the University's administration or governing board. The court concluded from these findings that the "full-time faculty [at Yeshiva], acting at times through committees or department chairmen, and at other times as a body, exercises supervisory and managerial functions as defined by section 2(11) of the Act, and within the Board's prior holdings as discussed in *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc.*" (Pet. App. A, 21a-22a)

REASONS FOR GRANTING THE PETITION

1. The decision below, in holding that faculty participation in matters of academic governance renders them managerial or supervisory employees, throws into question the status of a substantial number of existing bargaining relationships between faculty and the administrations and governing boards of privately supported institutions of higher education. Since the Board first asserted jurisdiction over private higher education, *Cornell University*, 183 N.L.R.B. 329 (1970), the faculties of seventy-seven such institutions have organized and entered into formal bargaining relationships with their administrations and governing boards,[3] relying on this

$300 increase supported by the faculty. *Cf.* Petition, p. 11. Similar inferences are drawn by the court of appeals throughout its opinion. The court's ultimate inference that the Yeshiva faculty are "operating the enterprise" is based on nothing more than facts showing that faculty advice on a variety of important matters is widely accepted by higher authority. We show below that the legal conclusions drawn by the court are incorrect. But we also believe that in its treatment of the record the court plainly overreached its authority under the "substantial evidence" test, *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474 (1951).

[3] The Chronicle of Higher Education, June 26, 1978, p. 8. See also Academic Collective Bargaining Information Service, Special Report No. 12, Update, April, 1978. In addition, the faculties of more than 500 state supported institutions of higher education are organized and currently engaged in collective bargaining under state enacted public sector bargaining laws. *Id.* Most of these state

extension of jurisdiction and on the Board's successive rejection of the argument—accepted below—that faculty are not covered employees.[4]

The decision below, relying on evidence that the faculty at Yeshiva University participated in governance matters in a fashion similar to—or at least apparently similar to—that contemplated by many existing labor agreements, held these faculty to be managerial or supervisory employees and hence not entitled to engage in collective bargaining except with the consent of their governing board. If this decision is not reviewed by the Court, the status of those faculties already organized—in some cases for substantial periods of time—and the agreements they have negotiated will remain legally uncertain. To the extent these faculties have been successful in incorporating into their labor agreements their substantial participation in matters of academic governance,[5] they may also have converted themselves into supervisory or

laws are modeled on the National Labor Relations Act. See *e.g.*, Conn. P.A. 566, L. 1975, §§ 1-11; Minn. Stat. §§ 179.61-179.76 (1976 Supp.); N.J. Stat. §§ 34:13A-1 - 34:13A-11 (1976 Supp.); Pa. Stat. tit. 43, §§ 1101-101 - 1101.2301 (1976 Supp.)

[4] The Board has repeatedly rejected the contention that the faculty role in governance matters ousts them from coverage by the Act. See, *e.g.*, *Adelphi University*, 195 N.L.R.B. 639 (1972); *New York University*, 205 N.L.R.B. 4 (1973); *Fordham University (I)*, 193 N.L.R.B. 134 (1971); *Fordham University (II)*, 214 N.L.R.B. 971 (1974); *University of Miami*, 213 N.L.R.B. 634 (1974); *Northeastern University*, 218 N.L.R.B. 247 (1975).

[5] In the Appendix to this Brief we have set forth, in summarized form, the provisions of twenty collective bargaining agreements negotiated by faculty unions at privately supported institutions of higher education. As the Appendix demonstrates, the collective bargaining agreements negotiated by faculty generally provide for extensive faculty involvement in decisions relating to the appointment, reappointment, promotion and tenure of their colleagues. Many agreements also establish procedures for faculty participation in decisions relating to matters of educational policy: the setting of the curriculum, the establishment of degree and admission requirements, budgetary matters, long-range planning, and the formulation of capital improvement plans.

managerial employees no longer entitled to engage in collective bargaining under the Act. The disruptive—and indeed ironic—impact of such a result is obvious and ought not be countenanced absent review by this Court. Moreover, the circumstance that a growing number of faculties, at Yeshiva and elsewhere, have found it necessary or appropriate to bargain for an assured and often enhanced measure of participation in governance matters is manifestly at odds with any assertion that they are managerial employees.

2. The decision below imposes on the Board and on faculty employed at privately supported institutions of higher education a legal standard which is impossible to administer and which will inevitably result in unstable relations between faculties and the administrations and governing boards at such institutions. The decision below rests not only on a finding of faculty participation in matters of academic governance, but also upon a finding of broad acquiescence in faculty recommendations on the part of the administration and governing board of Yeshiva. Coupling these two findings, the court below concluded that the faculty are effectively managing the institution.

But the degree of participation and the degree of acquiescence can vary widely from time to time, from institution to institution, and from issue to issue. These inevitable variations—if the decision below stands—can have a decisive effect on the rights of faculty to engage in collective bargaining under the NLRA, not on the basis of an evenly applicable rule of law, but rather on the basis of shifts in the climate of institutional relationships. The burden this will place on the Board and the parties is obvious. For it will be impossible to determine, absent a complex fact-finding process, whether the faculty are covered employees. Such a determination, if the decision below stands, will depend on an assessment of the

extent of faculty participation in governance matters and the degree to which an institution's administration and governing board abide by faculty recommendations.

It is perfectly possible, given the energy of the participants, for the Board, consistent with the rationale of the court below, to come to opposite conclusions regarding faculty bargaining rights on successive election petitions filed by the same faculty at the same institution.[6] It could well be that a new administration or newly configured governing board could choose to dispense with the faculty advice which had largely governed the actions of their predecessors. In such event, even assuming the validity of the decision below, the institution could no longer claim managerial or supervisory status for its faculty. The lively possibility of so untoward a result is reason enough for this Court's review.

3. The role of the faculty in the affairs of Yeshiva University does not warrant a finding of managerial or supervisory status as a matter of law. This is so although there can be no doubt that the patterns of governance that characterize many of this country's institutions of higher education, apparently including Yeshiva University, are markedly different from the generally more hierarchical structure of the typical industrial enterprise governed by the Act. As we show more fully below, these differences cannot serve to support a finding that faculty members are "supervisors" as that status is defined in section 2(11) of the Act,[7] or that they are

[6] The Act bars the conduct of a collective bargaining election within twelve months of another election held within the same unit. § 9(c)(3), 29 U.S.C. § 159(c)(3). Other than this time bar there appear to be no significant impediments to the filing of a new election petition after an earlier petition has been dismissed. See Subpart C, Rules and Regulations, National Labor Relations Board.

[7] A supervisor is defined by the Act as "any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other

managerial employees as defined by the Board, by the courts of appeals, and by this Court in *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267 (1974).[8] The decision below is, accordingly, legally incorrect. Since it overrules a long line of Board decisions, pursuant to which a substantial number of bargaining relationships have been established,[9] it raises important questions regarding the administration of the Act which warrant this Court's review.

a. In many colleges and universities the faculty participate in what are generally described as matters of academic governance (matters of faculty status, curriculum, degree and admission requirements, and other matters of educational policy), though the extent of this participation and its impact on higher education manage-

---

employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in conjunction with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment." Sec. 2(11), 29 U.S.C. Sec. 152 (11)

[8] The Act itself does not mention managerial employees. They are, however, excluded from the Act's definition of covered employees as a matter of Board law, which has been confirmed by the courts. The Board has defined managerial employees as

> those who formulate and effectuate management policies by expressing and making operative the decisions of their employer, and those who have discretion in the performance of their jobs independent of their employer's established policy . . . [M]anagerial status is not conferred upon rank-and-file workers, or upon those who perform routinely, but rather it is reserved for those in executive-type positions, those who are closely aligned with management as true representatives of management. *Bell Aerospace Co., On remand*, 219 N.L.R.B. 384 (1975)

See also, Ford Motor Co., 66 N.L.R.B. 1317, 1322 (1946); *Retail Clerks International* v. *NLRB*, 366 F.2d 642, 645 (D.C. Cir. 1966); *Illinois State Journal Register* v. *NLRB*, 412 F.2d 37 (7th Cir. 1969); *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 286-287 (1974).

[9] See notes 3 and 4, *supra*, pp. 4 and 5.

ment varies widely. However, whatever its extent, the *character* of this activity is not analogous to the type of authority which has been held in other contexts to result in supervisory or managerial status.

Unlike the statutory supervisor or the managerial employee, the influence of a college or university faculty derives not from being "aligned with management" (*Bell Aerospace Co., On remand, supra*, note 8) or from any express authority delegated by management to all or part of the faculty. Rather it derives from the faculty's professional expertise and from the nature of management's necessary reliance on them for the competent delivery of the institution's unique "service," the teaching of students and the general advancement of knowledge through research and publication.

It would be unnatural for higher education management to confine their reliance on faculty to the competent performance of their primary responsibilities in the classroom, laboratory or library. For most important decisions of educational policy and faculty status require an understanding of what goes on in those areas, an understanding which is uniquely possessed by the faculty. The implications of this fundamental proposition are widely recognized. As the former Controller of Teachers College, Columbia University, observed, "the board [of trustees] in fulfilling its responsibilities for management, requires the aid of the faculty . . . because the Board does not, unaided, possess the best judgment on all matters involved." T. Hungate, MANAGEMENT IN HIGHER EDUCATION 66-67 (1964). To similar effect is a leading study of academic governance:

> Decision-making in the university must involve the teacher-researcher "on the assembly line" because he chiefly knows intimately what the "production" of the university is all about; it is his immediate proximity to the personal tensions of learning and scholarly creation which give legitimacy to much of the

> decision-making for the academic community. H. Mason, College and University Government, 1 (Tulane Studies in Political Science, Vol. XIV, 1972).

Moreover, faculty themselves are frequently vigorous, as are many professionals,[10] in insisting on the preservation of their influence over the governance of their institution sufficient to insure that they are able to function as freely and effectively as possible. The best evidence of this, in the context of the current dispute, lies in the results of the collective bargaining which has been carried out in higher education. As the Appendix demonstrates, faculty labor agreements consistently provide for considerable faculty participation in faculty status decisions and in other matters of academic governance as well.

In short, a faculty's influence on the governance of its institution flows from its professional expertise and from the fact that faculty expertise is what the institution produces. The degree of faculty influence depends upon the extent of management's recognition that reliance on faculty judgment is appropriate or necessary, and from the faculty's frequently vigorous insistence that its judgments be heeded—an insistence that is increasingly being institutionalized through collective bargaining.

b. The Act does not contemplate that the tendering of advice to management renders the advisors supervisors or managerial employees, even when the advice is over "hire and fire" decisions, or other policy matters of central importance to the employer, and even when the advice is generally followed. Nor is it contemplated that a group of employees whose advice management has decided or agreed to solicit and frequently follow shall be

[10] For a thorough treatment of the interrelationships between the supervisory exclusion and professional employment, see Finkin, *The Supervisory Status of Professional Employees*, 45 Fordham L. Rev. 805 (1977).

excluded from the Act's protections either on the strength of section 2(11) or under the Board's definition of managerial employees. Professional employees, who commonly make recommendations on important matters to their employer, are as a class explicitly covered by the Act.[11] As the Board held in *Westinghouse Electric Corp.*, 113 N.L.R.B. 337, 339-40 (1955):

> While manufacturing engineers make recommendations on matters which are of great importance to management, that factor is usually present in the work of all professional employees, and does not in and of itself make them part of management so as to preclude their inclusion in a professional unit. Indeed, this common factor, in our opinion, was one of the reasons why Congress specifically provided for the establishment of separate professional units. To justify the exclusion of individuals otherwise qualified for inclusion in a professional unit upon the ground that they are too closely allied to the Employer to be regarded as employees under the Act, we believe that *it must be established that the individuals in question have interests and duties not*

[11] Section 2(12) of the Act defines professional employees as "(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (b) any employee, who (i) had completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a)." Sec. 2(11), 29 U.S.C. Sec. 152(12).

shared by the other professionally engaged employees. (Emphasis supplied)[12]

Plainly, something more than a high degree of influence on management is required to make an employee "managerial." As this Court has stressed, "the question whether particular employees are 'managerial' must be assessed in terms of the employees' actual job responsibilities, authority and *relationship to management.*" *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 262, 290, n. 17. (Emphasis supplied.) The relationship must be sufficiently close as to render such employees "aligned with management as [its] true representatives." *Bell Aerospace Co., On remand, supra,* note 8.

A close relationship with management is also a central ingredient of the supervisory exclusion. In addition to listing the discrete functions which evidence supervisory status, section 2(11) contains the overarching requirement that the exercise of such functions be the product of "authority" to act "in the interest of the employer." In other words, in order for an individual to be held a supervisor, he must "(1) have authority (2) to use independent judgment (3) in performing such supervisory

[12] See also *Westinghouse Electric Corp.*, 97 N.L.R.B. 1271, 1272 (1952), where the Board, after noting that the Employer's "methods engineers" make "no individual policy decision[s] on a policy level," held that "mere participation in conferences of supervisory personnel from which emerge some decisions based in part upon . . . recommendations [of the methods engineers] does not give . . . managerial status [to those engineers]." See also, *General Dynamics Corp.*, 213 N.L.R.B. 851, 857-858 (1974). These Board decisions seem plainly consistent with the intent of Congress, which, in extending the Act's coverage to professional employees, rejected emphatic urgings that professional employees ought be excluded as managerial or supervisory employees. Hearings on Amendments to the National Labor Relations Act Before the House Comm. on Education and Labor, 80th Cong., 1st Sess. 1225 (1947); Hearings on S. 55 and S.J. Res. 22 Before Senate Comm. on Labor and Public Welfare, 80th Cong., 1st Sess. 694 (1947). And see, Finkin, *The Supervisory Status of Professional Employees, supra.*

functions (4) *in the interest of management.*" *NLRB* v. *Security Guard Service*, 384 F.2d 143, 147 (5th Cir. 1967) (Emphasis supplied). There must be "[s]ome kinship to management, some emphatic relationship between employer and employee . . . before the latter becomes a supervisor for the former." *Id.* at 149.[13]

It is clear then that both supervisory employees and managerial employees are to be management's representatives. In the case of supervisory employees they must, in addition, perform one or more of the functions enumerated in section 2(11). In the case of managerial employees they must "formulate and effectuate management policies by expressing and making operative the decisions of their employer." *Bell Aerospace Co., On remand, supra,* note 8.

c. The court below rejected the Board's conclusion that any authority exercised by the faculty was exercised in its own behalf rather than "in the interest of the employer." At bottom, the court's holding in this regard is based simply on its finding that the University's administration and governing board frequently concurred in faculty recommendations, thereby belying any "divergence" of interest. (See Pet. App. A, 34a, 36a) But nothing in the law requires that the interests of

[13] See *Stop & Shop Companies, Inc.* v. *NLRB*, 548 F.2d 17, 19 (1st Cir. 1977):

> "The reason for excluding supervisors is that they must be representatives of the interests of their employer vis-a-vis other employees. . . . To put the issue in homely terms, do the other employees feel, assuming the alleged supervisor is one who reasonably respects his duties, 'Here comes that so-and-so, get to work,' or is he, basically, but one of the gang who merely gives routine instructions?"

The legislative history of section 2(11) also supports this required "kinship to management." The Congressional intent in enacting the supervisory exclusion was to exclude only those employees who are "truly supervisory" or who are a part of the "front line of management." S.Rep. No. 105, 80th Cong., 1st Sess. 3-5 (1947).

employees be literally divergent from those of their employer before they are entitled to the protections of the Act. *Cf. Brewery Workers* v. *NLRB*, 298 F.2d 297, 303 (D.C. Cir. 1961), *cert. denied*, 369 U.S. 843 (1962). ("The entire work force from the president down to the messenger boy in one sense acts in the interest of the employer, as Congress well knew. Surely it contemplated some other test than is afforded by a sheerly literal reading of section 2(11).")

Faculty do not meet the requirements for supervisory or managerial status. They are not "aligned with management," nor are they accountable to management except in the performance of their teaching and research functions. The court below recognized this when it noted that "most university faculties enjoy a state of *independence* and influence on policy which is 'entirely unknown among the professionals in private industry.'" (Pet. App. A, 28a) (Emphasis supplied. Citation omitted.) But the court below missed the import of this unusual "independence" from management. Rather than perceiving that it refutes any claim that the faculty are "aligned" with their administration and governing board, the court held instead that faculty could not be analogized to professionals in industry simply because their "independence and influence" are so much greater. (Pet. App. 27a-28a) In reaching this conclusion the court looked in the wrong direction. There is no doubt that a professional employee, partly due to his professional expertise, may become so implicated in the management of his employer as to be a managerial employee within the Board's definition. But a high degree of independence from management may well produce the opposite result, notwithstanding the degree of influence which may result from active and regular participation in governance matters.

In addition to misconstruing the significance of faculty independence from management, the court below also

failed to deal adequately with other implications of the faculty's status as professional employees. Certainly it is true, as the court held, that the faculty's professional status "does not preclude their classification as supervisory or managerial employees." (Pet. App. A, 25a) But having said that, it remains to determine whether the faculty's collective impact on management, which is undeniably as significant at Yeshiva as it is at many other institutions of higher education, is an incident of their professional status; or rather whether it aligns them with management to an extent sufficient to render them managerial employees. Even were their independence from management less marked, it is impossible to construe the faculty governance role at Yeshiva as other than an extension of their professional responsibilities. We show this more fully immediately below.

The court below conceded as virtually self-evident the faculty member's "authority to determine the content of his course, the method he employs in teaching it, and the evaluation of his students' academic performance" and held that "these attributes of professionalism should not characterize them as managerial or supervisory." (Pet. App. A, 26a) But the court failed to take the necessary next step and consider whether the areas in which faculty recommendations were found to be influential are not simply natural extensions of their interest in fulfilling their professional responsibilities. This was a critical omission. For surely if the faculty's recommendations in governance matters are logical extensions of their professional interests, then the circumstance that these recommendations are generally followed by management cannot serve as a basis for robbing faculties of their rights as professional employees to coverage under the Act. Advice is no less advice when it is taken.

Consideration of the areas of faculty influence at Yeshiva leads almost inescapably to the conclusion that the faculty participation in governance matters is an

incident of their status as professionals. Certainly, for example, the faculty's collective interest in the establishment of admission and degree requirements is a logical extension of their acknowledged individual authority over the "evaluation of [their] students' academic performance." (Pet. App. A, 26a) Yet the court below appears to have held that the faculty's influence over admission and degree requirements is among the factors which render them managerial employees.

Similarly, the court below appears to have attached considerable significance to the fact that the faculty participation in decisions regarding the retention of marginal students can result in a tuition loss when a student is dropped pursuant to a faculty recommendation. (Pet. App. A, 8a) But the budgetary significance of this faculty activity—which is clearly related to their general authority to evaluate students—is of no more significance than the decision of a faculty member to employ a certain textbook or to use laboratory facilities to teach a course. These are decisions which also have marked budgetary significance, but which the court below conceded would not render them managerial employees.[14]

The same is true of the faculty's natural interest in the University's curriculum and the consequent reliance of the administration and governing board on faculty advice in this area. Certainly the faculty, more than any other component of the university community, knows what it can teach and what is worth teaching. And obviously the formulation of the curriculum is central to their professional concerns, quite apart from their unique expertise. The court of appeals did not recognize this,

[14] *Cf. Western Electric Co.*, 100 N.L.R.B. 420, 422 (1952) where the Board held that an employer's stock maintainers were not managerial employees, though their performance was critically important, and their recommendations, or errors in their judgments, could easily impose a substantial cost on the employer.

but held that the faculty's influence over curriculum matters is also among the factors which render them managerial employees.

The court's treatment of the Board's "collective authority" doctrine is similarly flawed. The court acknowledged that the language of section 2(11), referring as it does to authority exercised by "any individual", lends firm support to the Board's conclusion that authority exerted collectively is not the type contemplated by the statutory exclusion. Pet. App. D, 69a-70a. See also, *e.g.*, *Adelphi University*, 195 N.L.R.B. 630, 648 (1972). The court below also recognized that reliance on collective authority to support a finding of supervisory status results also in a finding that the employees in question are supervising each other—clearly a tenuous interpretation of § 2(11). *Cf. Illinois State Journal Register* v. *NLRB*, 412 F.2d 37 (7th Cir. 1969); *Mourning* v. *NLRB*, 559 F.2d 768 (D.C. Cir. 1977). The court avoided this hurdle by holding that, in any event, there is nothing to *preclude* a finding that collective authority results in managerial status, even if it cannot support a finding of supervisory status. (Pet. App. A, 31a-32a) This is true enough. But the fact that true managerial authority may be exercised on a collective basis does not mean that collective participation in managerial decisions *necessarily* renders the participants managerial employees. And, as we have shown, the character of faculty participation in governance matters at Yeshiva is not such as to produce the "alignment with management" necessary to a finding of managerial status.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

WOODLEY B. OSBORNE
1 Dupont Circle, N.W.
Washington, D.C. 20036

Attorney for American Association
of University Professors
Amicus Curiae

APPENDIX

APPENDIX

This appendix is comprised of representative provisions from collective bargaining agreements covering bargaining units consisting chiefly of full-time faculty at privately supported institutions of higher education. Part I contains provisions relating to faculty participation in what are generally referred to as matters of academic governance: curriculum, degree requirements, admission requirements, the grading system, teaching loads and budgetary matters. Part II summarizes provisions relating to faculty participation in matters relating to faculty status: initial appointments, reappointments, promotion and tenure.

The full texts of the agreements cited in this Appendix are available through the Bureau of National Affairs, Washington, D.C. or the National Center for the Study of Collective Bargaining in Higher Education, 155 East 24th Street, New York, New York.

Except where otherwise indicated, each of the bargaining relationships covered by this Appendix was established following an NLRB-conducted election.

I. GENERAL "GOVERNANCE" PROVISIONS

Fairleigh Dickinson University (New Jersey)—

> The Agreement establishes faculty "governance" committees on departmental, college and campus levels charged with advising the administration on a wide range of matters of educational policy. For example, the Agreement creates, for each college, a College Educational Planning Committee which is, among other things, "to engage in short-term and long-term planning for the college," review curricular recommendations, and "propose educational policies, college-

wide academic standards and requirements, admissions standards, and criteria and standards for honors work within the college . . ." (Article 11)

The Agreement also provides for a campus-wide faculty Committee on Buildings and Grounds, which, among other things, is to "participate in the planning and development of new building construction and major alternatives to existing buildings and grounds." (§ 8.86)

The Agreement provides for faculty participation in the selection of administrators, up to and including the President. (Article 14)

The Agreement provides for the establishment of a "University Commission," made up largely of faculty members, when, "in the view of the President, the University's problems are of such magnitude and complexity as to be inappropriate for examination by any college or campus planning agency. . ." (Article 17)

Adelphi University—

The Agreement provides that the faculty Constitution "shall provide continuance of existing rights, privileges, and responsibilities of the faculty to participate directly through the Senate in its own governance and in the initiation of the decisions on educational policy and standards within the University." (Article VI)

Antioch College School of Law—

The Agreement gives faculty non-voting representation on the Board of Trustees (Article XXII)

Ashland College (Ohio)—

The Agreement creates a joint Board of Trustees/faculty committee to assess the college's financial condition. If reductions in faculty positions are deemed necessary, the agreement requires prior consultation with the faculty senate.

Dowling College [1] (New York)—

Faculty are responsible under the Agreement for making recommendations regarding the operating budget and course offerings of their respective divisions. A joint faculty-administration senate has "full authority and responsibility" to determine admissions policies, approve the granting of degrees, award sabbatical leaves, approve the curriculum, and to establish the policy regarding the disbursement of financial aid and scholarship funds. (Article III)

Marymount College (New York)—

The Agreement states that the College Board of Trustees and President "are aware of the necessity for involving faculty in genuine participation in decisions covering educational policy . . . [and recognize] the necessity of faculty participation in educational policies which the faculty will be largely responsible for implementing."

Noting that the Board and President "reserve the right of veto on all matters," the Agreement establishes the "President's Council," consisting of the President, two deans, four faculty members and three students. The Council is to make

[1] This bargaining relationship was established by voluntary recognition.

recommendations regarding the instructional budget, long range planning, tuition and fees and the College's several goals and priorities. (B2.31)

Rider College [2] (New Jersey)—

The Agreement establishes faculty committees on the school and college level with the responsibility to "develop academic policy proposals on such items as curriculum, graduation requirements, . . . and other matters of an academic nature traditionally handled by the faculty . . ." (Article XI)

St. John's University [3] (New York)—

The Agreement provides that the "faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. . . . The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy." (Article II)

The Agreement provides for faculty participation in the selection of deans. (Article VIII) The Agreement expressly provides that either the faculty or the administration may "initiate action" to eliminate or reduce academic programs or departments with ultimate authority residing in the Board of Trustees. (Article XIX)

---

[2] This bargaining relationship was established by voluntary recognition.

[3] This bargaining relationship was established after an election conducted pursuant to the provisions of New York's "little Wagner Act."

University of Detroit—

The Agreement requires prior consultation with faculty prior to any decision to reduce the number of faculty positions. (Article VII)

University of Dubuque—

The Agreement establishes a "Program Development Committee," consisting of three faculty members, the Dean and one student, to make recommendations to the Dean regarding curriculum, teaching assignments and new degree programs. (Article 33)

The Agreement also establishes a similarly constituted "Institutional Advancement Committee" which is to consult with the University administration regarding budgetary decisions, proposals to reduce faculty positions and significant capital improvement programs. (Article 35)

Utica College of Syracuse University—

The Agreement establishes a curriculum committee, consisting of five faculty members, one librarian and one administrator, to recommend course changes, credit hour changes and standards and policies governing all permanent courses and curricula. (Article VIII)

The Agreement establishes an "Academic Standards Committee," consisting of six faculty members, which makes recommendations to the President regarding admission and degree requirements. (Article VIII)

Wagner College (New York)—

The Faculty Handbook, incorporated by reference into the Agreement, provides for a "Faculty Council," consisting of nine faculty members

and the President and Academic Vice President, *ex officio*, with responsibilities to oversee and evaluate the academic program, receive and evaluate reports of faculty committees, and "act as a channel of communication between the administration and the faculty in regard to the framing and execution of long-range plans, basic decisions regarding existing and prospective physical resources, and budgetary matters." The Faculty Handbook also provides for faculty committees with responsibilities over, among other things, admission policies, grading policies, degree requirements, curriculum, and faculty workload.

Bard College (New York)—

The Agreement provides that "the existence of a financial exigency which may warrant the termination of a continuous appointment shall be determined by the mutual agreement of the President and the Executive Committee of the [faculty union]." (Article VII)

University of Bridgeport—

The Agreement provides for the creation of a "University Productivity Committee," consisting of three people appointed by the President and three by the faculty union. The Committee is to review and approve "productivity" plans submitted to it by the colleges within the University. (Article 9)

The Agreement further provides that "[t]he University shall not implement any personnel decision affecting a member of the bargaining unit which is made for financial reasons unless the decision is pursuant to a college plan approved by the UPC." (Article 9)

II. CLAUSES GOVERNING DECISIONS RELATING TO FACULTY STATUS

Antioch College School of Law—

Initial appointments to faculty positions are not to be made without "prior approval by a majority vote of the faculty." (Article XIII)

Bloomfield College (New Jersey)—

Initial appointments to faculty positions are not to be made without approval of a majority of the faculty members in the candidate's discipline. Faculty to play "the major role" in all decisions relating to faculty status. (Article V)

Dowling College (New York)—

The faculty, through division coordinators, are responsible for making recommendations regarding the hiring of full and part-time faculty. (Article III)

Hofstra University—

The Agreement establishes detailed procedures whereby faculty, through a committee structure, make recommendations to the University administration regarding the appointment, reappointment, promotion and tenuring of faculty. The Agreement further requires the administration to give "great weight" to such recommendations. (Article VI)

Long Island University (Brooklyn Center)—

The Agreement provides that "[t]he responsibility for evaluating the credentials and performance of faculty members and for determining their eligibility for appointment, reappoint-

ment, promotion, and tenure rests principally with the faculty." The Agreement further provides that "the recommendations of the Faculty Review Committee will be followed except for compelling reasons . . ." With regard to initial appointments, the agreement provides that "all applicants for available . . . faculty positions shall be reviewed and approved by a majority of the qualified voters of the department . . ." (Article VII)

Loretto Heights College (Colorado)—

The Agreement creates a Standing Committee on Tenure which is to make recommendations to the College President regarding candidates for tenure. The President must state his reasons in the event of disagreement with the Committee and meet with it, if requested, to discuss those differences (Article V)

Marymount College (New York)—

The Agreement establishes a faculty rank and tenure committee charged with reviewing and making recommendations regarding matters of promotion, tenure, emeritus status, and sabbatical leaves. (Article A1)

New York Institute of Technology [4]—

With regard to initial appointments to faculty positions, the agreement provides that a Departmental Personnel Committee "shall conduct the search for and the evaluation of applicants . . ." (Article XI) These Committees are also responsible for making recommendations regarding reappointment and promotion decisions. (Article XII)

[4] This bargaining relationship was established following an election conducted under the provisions of New York's "little Wagner Act."

Rider College [5] (New Jersey)—

The Agreement establishes a Promotion and Tenure Committee made up of an equal number of administrators and tenured faculty members. This Committee receives departmental recommendations on promotion and tenure decisions and forwards its own recommendations to the College's Board of Trustees. Both the Committee and the Board of Trustees are enjoined not to "arbitrarily sustitute their judgments on the professional expertise of the candidate for properly documented judgments presented in the departmental recommendation." (Article VI)

St. John's University [6] (New York)—

The Agreement provides that initial appointment decisions are to be made by the departmental personnel and budget committee. (§ 5.1) Where the President wishes to "infuse new life into a department," he may designate the desired qualifications and, on the failure of the departmental committee to recommend an acceptable candidate, the President may make the appointment himself. (§ 5.5)

University of Bridgeport—

The Agreement provides that "[s]ubject to review by the President of the University, the faculty shall have primary responsibility with regard to all academic appointments, renewals or non-renewals of such appointments, promotion, and tenure. On such matters, the President shall concur with the faculty judgments

[5] See note 2, *supra*.

[6] See note 3, *supra*.

except in rare instances and exceptional circumstances for compelling reasons written in detail which shall not be arbitrary nor capricious." (Article 8)

University of Detroit—

The Agreement provides for the creation of a Faculty Status and Promotion Committee with responsibility for making recommendations to the administration concerning promotion and tenure decisions. (Appendix A)

Lowell Technological Institute—

Initial appointments to faculty positions are to be made by recommendation of the faculty. When recommendations are rejected, the process is repeated. (Article E) The Agreement also provides for the establishment of a Faculty Tenure Committee to make recommendations to the President regarding "tenure and removal from position." (Article D)

Utica College of Syracuse University—

The Agreement establishes a Faculty Affairs Committee to make recommendations regarding promotion, tenure, and reappointment decisions. In the event of irreconcilable differences between the Committee and the College President, both recommendations are submitted to the University Chancellor for final decision. (Article VIII)

Fairleigh Dickinson University (New Jersey)—

The Agreement sets forth detailed and elaborate structure of faculty committees charged with responsibility for making and reviewing recommendations regarding appointment, reappointment, promotion and tenure (Articles 10, 11)

Supreme Court, U. S.
FILED
JUN 5 1979
MICHAEL RODAK, JR., CLERK

APPENDIX

Volume I, pp. 1-390

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

—*v.*—

YESHIVA UNIVERSITY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI IN NO. 78-857 FILED NOVEMBER 27, 1978

PETITION FOR CERTIORARI IN NO. 78-997 FILED DECEMBER 19, 1978

CERTIORARI GRANTED FEBRUARY 21, 1979

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

—*v.*—

YESHIVA UNIVERSITY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

INDEX

	Page
Chronological List of Relevant Docket Entries	1
Orders Allowing Certiorari	3
Excerpts from Transcript of Proceedings	5
Witnesses:	
Joshua A. Fishman	
Direct	6
Cross	83
Redirect	116
Sheldon Socol	
Direct	116
Cross	145
Redirect	152
Martin Miller	
Direct	155
David Mirsky	
Direct	180
Cross	223
Redirect	240

Page

Excerpts from Transcript of Proceedings—Continued

Dr. Isaac Bacon

Direct 243
Cross 285
Redirect 391
Recross 304, 392

Jacob Rabinowitz

Direct 304
Cross 341
Redirect 351
Recross 352

Rabbi Morris J. Besdin

Direct 352
Cross 366
Redirect 371

Rabbi Baruch Faivelson

Direct 372
Cross 388

Rabbi Herbert C. Dobrinsky

Direct 443

Dean Arthur Komar

Direct 393, 453
Cross 469
Redirect 489
Recross 494

Solomon H. Green

Direct 495

Leo Landman

Cross 540
Redirect 553
Recross 559
Direct 559, 580
Cross 591

Zevulum Charlop

Direct 562
Cross 575

Page

Excerpts from Transcript of Proceedings—Continued

Joseph Gittler

Direct 595
Cross 661
Redirect 678
Recross 679

Manfred Weidhorn

Direct 679
Cross 697
Redirect 715

Ralph Behrends

Direct 716
Cross 743
Redirect 751
Recross 751

Max Lipsicas

Cross 752
Recross 767

Exhibit Volumes III and IV indexed separately.

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Yeshiva University

Case No. 2-CA-14697

2-RC-16662

10.30.74 Petition filed

11.12.74 Regional Director's Notice of Representation Hearing, dated

11.26.74 Hearing opened

5.6.75 Hearing closed

5.6.75 Hearing Officer's Order Transferring Representation Case to the National Labor Relations Board, dated

12.5.75 Board's Decision and Direction of Election, dated

12.29.75 Board's Order Amending Direction of Election, dated

5.17.76 Regional Director's telegraphic message requesting the Board amend the Direction of Election, dated

5.25.76 Board's Order Further Amending Decision and Direction of Election, dated

11.16-76 Notice of Election to be held on both dates

11.17.76

11.30.76 Regional Director's letter advising parties that pursuant to a stipulation entered into between the parties, a re-run election will be held by Mail Ballot and will be conducted for those employees who cast their ballots at Polling Place No. 2, dated

12.20.76 Notice of Election of Representative and Instructions, to Eligible Employees Voting by United States Mail, stating votes must be received by 12:00 noon on this date

12.20.76 Tally of Ballots issued

12.29.76 Regional Director's Certification of Representative, dated

2-CA-14697

2.4.77 Charge filed

2.22.77 Complaint and Notice of Hearing, dated

3.7.77 Respondent's Answer, dated

3.14.77 Regional Director's Order Postponing Hearing, dated

3.16.77 General Counsel's Motion (and Petition) for Summary Judgment and Issuance of Decision and Order, dated

3.30.77 General Counsel's Further Petition for Summary Judgment and Decision and Order, dated

2.21.79 The Orders of the Supreme Court granting certiorari, dated

SUPREME COURT OF THE UNITED STATES

No. 78-857

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

ORDER ALLOWING CERTIORARI. Filed February 21, 1979

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted. The case is consolidated with No. 78-997 and a total of one hour is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 78-997

YESHIVA UNIVERSITY FACULTY ASSOCIATION, PETITIONER

v.

YESHIVA UNIVERSITY

ORDER ALLOWING CERTIORARI. Filed February 21, 1979

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted. The case is consolidated with No. 78-857 and a total of one hour is allotted for oral argument.

BEFORE THE
NATIONAL LABOR RELATIONS BOARD
SECOND REGION

Case No. 2-RC-16518

In the Matter of

YESHIVA UNIVERSITY—BELFER GRADUATE SCHOOL

and

FACULTY ASSOCIATION OF BELFER GRADUATE SCHOOL OF SCIENCE

Case No. 2-RC-16517

YESHIVA UNIVERSITY—FERKAUF GRADUATE SCHOOL and FACULTY ASSOCIATION OF FERKAUF GRADUATE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES

26 Federal Plaza
New York, New York
Monday, June 10, 1974

The above-entitled matter came on for hearing, pursuant to notice, at 10:45 o'clock, a.m.

BEFORE:

HAYWOOD E. BANKS, Hearing Officer.

APPEARANCES:

SAUL G. KRAMER, ESQ.
PROSKAUER, ROSE, GOETZ & MENDELSOHN, ESQS., 300 Park Avenue, New York, New York, appearing on behalf of the Employer.

RONALD SCHECTMAN, ESQ.
MURRAY A. GORDON, P.C., 666 Third Avenue, New York, New York, appearing on behalf of Petitioners.

* * * *

[30] JOSHUA A. FISHMAN, called as a witness, having been first duly sworn by the Hearing Officer, testified as follows:

THE HEARING OFFICER: Be seated and give the reporter your full name and address, please.

THE WITNESS: Joshua A. Fishman, 3340 Bainbridge Avenue, Bronx, New York.

DIRECT EXAMINATION

BY MR. KRAMER:

Q Dr. Fishman, by whom are you employed?

A I'm employed by Yeshiva University.

Q In what capacity?

A I'm Vice-President for Academic Affairs.

Q How long have you held that position, Dr. Fishman?

A Since September 1973.

Q Would you tell us what are your responsibilities as Vice-President for Academic Affairs?

A I have overall integrating responsibility with respect to the programs of instruction, the degree programs, the quality of those programs, quality of the faculty, the merit of the faculty with respect to promotion, tenure.

Q Would it be fair to state, putting the president of the institution aside, Dr. Fishman, that you are the chief academic officer of the university?

[31] A Yes.

Q How long have you been associated with the university?

A I have been at Yeshiva University since 1960.

Q In what capacity, beginning in 1960 and coming forward?

A From 1960 to 1966, my faculty appointment was professor of psychology, and then psychology and sociology, but most of my time was spent as dean of the school, which ultimately became the Ferkauf Graduate School.

I also was engaged in research probably half of the time during those six years.

From 1966 through to 1973, I was university research professor of social sciences engaged in both teaching and in research, and since September 1973, although I retain my academic rank, I've also assumed this administration responsibility.

* * * *

[32] Q Dr. Fishman, when was Yeshiva University chartered by the State of New York?

A 1897.

Q Dr. Fishman, I show you a document of several pages, the top page of which is headed "The University of the State of New York, the State Education Department." It appears to be a letter under date of May 29, 1974.

Are you familiar with this document, which is marked as Employee's Exhibit No. 1?

[33] A Yes. This document is the charter of the University, as amended and updated on various occasions.

(Employee's Exhibit 1 was marked for identification.)

MR. KRAMER: I offer Employee's Exhibit No. 1 in evidence.

THE HEARING OFFICER: Any objection?

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: All right. Employee's Exhibit 1 is received in evidence.

(Employee's Exhibit 1 for identification was received in evidence.)

Q Dr. Fishman, does the university have a board of trustees?

A Yes, sir.

Q Is there any requirement that the members of the Board of Trustees maintain a particular religious affiliation?

A No, there is no such requirement.

Q Now, Dr. Fishman, you have been in various educational pursuits for over 20 years, is that right?

A Yes.

Q Would you tell us, based on your experience, what the term university means?

A A university is a large post secondary educational institution normally offering a great variety of degree [34] programs, normally providing opportunity for faculty to be in touch with each other, to be in touch with students throughout the university, providing opportunity for students to be in touch with each other and faculty throughout the university, interested not only in instruction, but also in research and interested in providing community service in the areas of the expertise of its faculty.

Q In your experience, Dr. Fishman, do universities consist of several schools or colleges?

A That's what I meant when I said a complex program. The program is not so simple or so limited as to be easily placed within a single category or a single administrative jurisdiction, just in terms of the ease of the operation.

Q Is it also correct, Dr. Fishman, that most universities grant both graduate and undergraduate degrees?

A That's certainly the case.

Q You've given us a rather complex definition, Dr. Fishman. Does Yeshiva University meet this definition?

A I think it certainly does. I think it takes all of the parts of the definition very seriously, I would say particularly the more philisophical parts, which imply educational goals, educational philosophy, which are among the top concerns of the faculty, the administra- [35] tion as well.

Therefore, there is no academic field that really corresponds neatly to the interests, the intellectual interests of students, to the intellectual interests of faculty and, therefore, it's a serious aspiration, an interest and concern of all of us, to make sure that students and faculty can follow their intellectual interests and their professional interests throughout the university wherever they find other faculty that have that interest, other students that have that interest, so that it doesn't turn out that any administrative convenience that may exist for the moment curtails what I have referred to as the opportunity to meet, to teach, to question, to research and

to discuss a topic regardless of where it takes you, because no intellectual topics are really sliced the way university catalogues are sliced.

The overall implication of university is something universal, because everything has to be included, everything has to be possible in terms of a question that can be asked and the person of whom you can ask that.

Q Dr. Fishman, is the university accredited by a particular body?

A The university is accredited by the Middle States Association.

Q When was the last academic visit by that association?

[36] A The last full visit was at the end of '69 or the beginning of the '70's.

Q Is it possible for an accreditation to have a theme?

A I would say once an educational institution is well established and there is no longer any doubt on the part of the accrediting body that its operations are basically sound, it then no longer just routinely looks into merely the quality of all of the programs, since they are assumed to be acceptable, if not higher than acceptable; it then prompts or permits the institution to pick a theme which is of concern to it so that both the faculty self-evaluation before the visit as well as the visit itself can focus in on this theme which is of overriding concern at the time.

Q And was the visit—was there a theme for the visit in the late '60's?

A The theme for the last visit—there was a theme, and the theme for the last visit was the integration of the university, the overall coordination and integration of the university.

MR. SCHECTMAN: I object. I don't think any basis has been laid for who establishes theme or whether the theme was any formal policy of the Board of Accreditation or the university deemed this theme with respect to the visit of the officials from the accreditation agency.

[37] MR. KRAMER: As you know, Mr. Hearing Officer, this is a non-adversary proceeding where the rules of evidence don't apply.

I would like to continue to pursue this line. I am sure many of my colleagues' comments will be mooted by my examination.

He can pursue this further on cross examination.

MR. SCHECTMAN: We are very interested in what this theme was. If we could have some information as to how it was determined or how it was defined or designated—

THE HEARING OFFICER: I'll overrule the objection.

At the time that the questioning on direct has been completed, if it is not clear, then, of course, you will have ample time on cross examination to develop it.

Continue.

BY MR. KRAMER:

Q Dr. Fishman, you told us that the theme for the last visit of the Middle States Advisory Body was integration and cooperation, is that correct?

A Coordination.

Q Coordination. Who chose that theme?

A To my knowledge, that theme was among several themes that faculty and administration reviewed, and I think that theme was chosen collectively by faculty and administrative representatives.

[38] Certainly the self-evaluation around that theme was conducted by faculty committees and, therefore, although I wasn't present at the time, I would say by university tradition that's the way it would have been done.

Q Dr. Fishman, I've used the term full-time faculty in my opening statement. Is that term used at Yeshiva University?

A Full-time faculty? Yes.

Q Would you tell us what that term means?

A A full-time faculty member is a faculty member whose letter of appointment from the President states that he is a full-time faculty member.

He, therefore, either is on a tenure track or has been on a tenure track in accordance with our tenure policy which pertains to full-time faculty, and his—the university has every right to expect that all of his time is

given to the university and, therefore, there are regulations limiting the amount of time that he can give outside the university.

That time given outside the university is either related to a portion of his faculty teaching load, it can be no more—if he is teaching outside of the university, it can be no more than half of the normal faculty teaching load, or if he is doing non-teaching work outside [39] the university, it can be no more than the equivalent of a day of such work per week, and the permission to do any work outside of the university must be requested from one's dean, who must then request it from the President, and the permission can be given only by the President.

Q Now, is there also a quantitative test in determining whether someone is a full-time faculty member?

A The quantitative test is in the definition of the full-time load that I mentioned before. The full-time load at the university is defined as four courses, around 12 contact hours, or the equivalent thereof in other duties, committee work, dissertation, supervision, and so forth.

Q Is that four courses per semester?

A No, no. Per year.

Q Is that a graduate requirement?

A The graduate requirement and the undergraduate requirement are somewhat different, but they are essentially that, either four courses or 12 contact hours.

Q Who established that requirement, Dr. Fishman?

A That requirement was establishment by the Executive Council approximately in the spring of 1970.

Q Approximately how many full-time faculty members were employed at Yeshiva University at the beginning of the fall semester '73?

[40] A So far—

Q We are excluding the medical school here, Dr. Fishman.

A Full-time faculty members, approximately 225.

Q And approximately how many students were enrolled at the university, excluding the medical school, both full and part-time?

A Full and part-time students, approximately 2500.

Q Now, approximately how many of these students were full-time?

A There were 1500 full-time students.

Q And of these full-time, how many were full-time graduate students?

A Full-time graduate students, 336.

Q And full-time graduate students?

A Full-time undergraduate students, about 1200.

Q Of the part-time students, how many were part-time graduate students?

A Part-time graduate students were about 680.

Q And part-time undergraduate students?

A Part-time undergraduate students were about 340.

Q Dr. Fishman, would you tell us what schools make up the university?

A There are the following: Yeshiva College, Stern for Women, the Erna Michael College, the James Striar [41/55] School, the Teachers Institute for Women, the Belfer School, the Ferkauf School, the Wurzwelier School, the Bernard Revel School and its summer program called the Harry Fischel School.

I believe I've got them all.

Q Is there also a medical school, Dr. Fishman?

A Yes, there is also the Albert Einstein College of Medicine and its Sue Golding Division.

Q And finally, Dr. Fishman, is there a putative law school?

A There is a law school currently planned as a result of a charter amendment that was recently granted by the Regents, yes.

Q What will that law school be called?

A Benjamin Cardoza Law School.

* * * *

[56] AFTERNOON SESSION

JOSHUA A. FISHMAN, resumed the stand and testified further as follows:

THE HEARING OFFICER: The hearing will be in order.

CONTINUED DIRECT EXAMINATION

BY MR. KRAMER:

Q I think before the luncheon break, Dr. Fishman, you told us that a full-time load was 12 contact hours or four courses, and I asked you whether those were four courses per semester or per year, and you told us that they were four courses per year, academic year; is that correct?

A Per semester.

Q You would like to correct your testimony?

A Yes, sir.

Q The 12 contact hours are per semester, also?

A Yes.

Q Dr. Fishman, prior to the lunch break, I asked you how the theme for the Middle States Evaluation was established. Have you had an opportunity to think about that some more?

A The theme was established as soon as—by discussion between the Middle States Association and the University, and it was broken into several sub-themes, by discussion between the Middle States representative and University personnel into integration in the area of finances programs, [57] student relations and community relations.

That is, Middle States suggested these topics, and the University agreed to them and then asked the faculty of each school to set up a self-evaluation unit in accord with these topics.

Q Dr. Fishman, does the Middle States group accredit particular schools, or does it accredit the University as a university?

A Middle States Association will only accredit an entire university. It cannot accredit any part of it and not accredit some other part.

If any part of it is not accreditable because of its lapses or lacks, then the whole university is not accreditable.

* * * *

[58] Q Dr. Fishman, are all the schools you've referred to on a single campus?

A No, they are on different campuses.

MR. KRAMER: Would you mark this as Employer's Exhibit 2 for identification?

(Employer's Exhibit 2 was marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit No. 2 for identification, a chart, a graphic, call it what you will, entitled, "This is Yeshiva University".

Was this graphic prepared by someone under your general supervision and control?

A Yes.

Q Dr. Fishman, let's turn to the right corner of this graphic as you face it, upper right-hand corner.

Will you tell us what the photograph in the upper right-hand corner shows?

A It's a photograph of the main center, the various [59] buildings and facilities at that center.

Q Where is that center located?

A It's roughly 185th Street and Amsterdam Avenue in Manhattan, and several blocks above and below along Amsterdam Avenue.

Q Is that what we call Washington Heights section of Manhattan?

A Yes.

* * * *

[66] Q Now, Dr. Fishman, let's turn to the bottom right-hand corner of this graphic and to the single rather old style building that is there with the trees in front of it.

What is that building called?

A That's called the graduate center.

Q Where is that building located?

A Between 12th and 13th on Fifth Avenue, 55 Fifth Avenue, in Manhattan.

Q Now, Dr. Fishman, assuming you are not driving an automobile, of course, how do you get from the main center to the graduate center by rapid transit?

A Either the trains I mentioned before, either the IRT Broadway line or the Independent A train will take you from near the main center to near the graduate center.

Q I take it both of these centers, so to speak, are on the island of Manhattan?

A Yes.

Q About how long does it take to go by subway from the main center to the graduate center?

[67] A Roughly half an hour.

Q You've taken this trip, I take it?

A Yes.

Q Dr., is this building owned by the University?

A Yes.

Q I'm pointing now to the graduate center building.

A Yes.

* * * *

Q What purposes, other than the commercial rentals you've just described, is this building used for?

A The building houses the faculty that is primarily based at the Wurzweiler School of Social Work and the Ferkauf Graduate School, and then it houses certain central University departments.

Q Such as?

[68] A The Department of Development. The University Attorney's office is also another. There is the graduate center library there, which serves both of the schools that are in that building, primarily, although University students from other campuses use that library as well.

* * * *

[69] Q Let's turn to the lower left-hand corner and the lower middle of this exhibit.

Referring now to both of those pictures, would you tell us what those three buildings are, where they are?

A Those three buildings are referred to as the midtown center. They are roughly 35th and Lexington. The lower middle building is a womens dormitory. The two buildings in the lower left are general purpose classroom buildings that provide most of the classrooms used by students registered through Stern College or through

the Teachers Institute for Women. It has a cafeteria. It has a library, faculty offices, administrative offices.

* * * *

[71] Q Now, let's turn to the upper left-hand corner of this graphic, Dr. Fishman. Would you tell us—it looks like an aerial photo. What that aerial photo is designed to show?

A That's the whole area that involves Einstein Medical College, its hospitals, its faculty and student buildings, its instructional and research facilities.

Q Which borough of the City of New York is that located in?

A Bronx.

Q In which borough of the City of New York are the remainder of these buildings located?

A They are all in Manhattan.

Q In other words, the main center, the graduate center and the mid-town center are all on the island of Manhattan, is that correct?

A Yes.

* * * *

[72/80] Q Now, let's turn to Yeshive College. Would you tell us what its function is?

A Yeshive College is an undergraduate college for men offering the liberal arts and science training and culminating in the Bachelor of Arts degree, by and large.

[81] Q Does it also provide a Bachelor of Science Degree?

A Yes.

Q Approximately how many students are enrolled in Yeshiva college as of the fall term, 1973? These are all September figures, are they not, Dr. Fishman?

A Yes, and the total enrollment at Yeshiva College was approximately 780.

Q Approximately how many full time faculty members were there at Yeshiva College in September of 1973?

A The full time faculty of Yeshiva College was about 45.

* * * *

[82] Q Let's turn to Stern College. Would you tell us what the function of Stern College for Women is?

A Stern College is an undergraduate liberal arts and sciences college for women, and then offers majors in a wide variety of fields and provides an opportunity for obtaining Bachelor of Arts and Bachelor of Science Degrees.

* * * *

Q Approximately how many students were there at Stern College for Women in the fall of 1973?

A The Stern College enrollment was approximately 490.

Q And approximately how many full time members were there [83] at that school at that time?

A Approximately 40.

Q Now, what is the function of Erna Michael College?

A The primary function of Erna Michael College is to offer courses in various Hebraic studies for men who have a rather good prior preparation for such studies.

These men are in simultaneous attendance, by and large, at Yeshiva College.

In addition, Erna Michael College provides an opportunity for a Bachelor of Arts and Bachelor of Science and special terachers certificates and diplomas for men who have a particular interest in becoming teachers or specialists in Judaic fields.

Q These would be students who enroll directly in that college, is that correct?

A Yes.

Q About how many students are served by the Erna Michael College?

A Erna Michael College has an enrollment of about 230 students.

Q Approximately how many full time faculty members are there at Erna Michael College?

A Erna Michael College full time faculty membership is about twenty.

[84] Q By the way, Dr. Fishman, when you talk about faculty members, are you including professors and associate professors, assistant professors and instructors?

A Yes.

Q And, I take it that that's what you have meant throughout your line of testimony, is that correct?

A Yes.

Q Now, let's turn to the James Strier School. What is its roll at your university?

A The James Strier School offers courses in various Judaic fields for men, who by and large have a lesser degree of preparation in that entire area than do those who attend Judaic studies at the Erna Michael College.

Q Approximately how many students are served by that school?

A That school had an enrollment of about 215, and once more these were, by and large, students that were simultaneously enrolled in Yeshiva College.

Q And approximately how many full time faculty members are involved in that school?

A Full time faculty at the James Strier School is about ten.

Q Let's look at the Teachers Institute for Women. What is its function?

[85] A Teachers Institute for Women provides an opportunity for women who are interested in becoming teachers in Jewish schools to obtain training and to obtain a creditation recognized by the licensing authorities in Jewish education.

Q In addition to this program which you've just referred to, does the school also grant a B.S. Degree?

A It also grants a B.S. Degree for a number of students in full time attendance there.

Q Approximately how many students are served by Teachers Institute for Women?

A Teachers Institute has about 320 students.

Q And approximately how many full time faculty members are involved there?

A The full time faculty of the Teachers Institute is above five.

Q I assume there is a larger part time faculty than that, is that correct?

A Yes, and similarly the students are.

Q Now, let's turn if you would, Dr. Fishman, to the Belfer Graduate School of Science. It is called that, is it not?

A Yes.

Q Would you tell us what its roll is?

A Belfer school has several functions. It is the base for [86] the university's graduate programs in physics, mathematics and chemistry. It conducts the university's undergraduate programs in physics and in mathematics and is planning to do the same for chemistry with the beginning of the next year.

Q Does it also provide what we call B.A.-M.S. programs?

A It is involved in joint B.A.-M.S. programs with the university's undergraduate colleges, the Yeshiva College and Stern College, in these same three fields, in physics, chemistry and mathematics.

Q Doctor, would you tell the hearing officer what a B.S.-M.S. program is, or for that matter, what a B.A.-M.A. program is in another discipline curriculum?

A Bachelors Masters Program is a device whereby an undergraduate senior can in his senior year take courses, the credits for which will simultaneously count toward his undergraduate degree, his Bachelors Degree, and toward a Masters Degree.

That is, he receives credits in both directions simultaneously.

Q Are such programs currently in effect in chemistry, physics and mathematics?

A Yes.

Q Do you know how those programs came into being?

[87] A Yes.

Q Tell us about that, would you please?

A In every case, since the faculty offering advance science work is doing its work through the Belfer School, the faculty in the graduate departments took the initiative in requesting and in planning and in implementing these programs.

Q Planning them with whom?

A The faculties in the other schools where there is course work corresponding to the programs in chemistry, physics and mathematics.

Q Are these in existence today joint committees between the faculties of the undergraduate and the Belfer School in these program areas, math, chemistry and physics?

A Yes, joint committees to operate these programs, plan them, to operate them, to improve them.

* * * *

[90] Q You've told us before that the university has a public relations office, is that correct?

A Yes.

Q Has the public relation's office put out a brochure or handout on these joint B.A.-M.S. programs?

A Yes, sir.

Q That has been put out to the public, I take it?

A Yes.

Q I show you Employer's Exhibit 4 marked for identification. Is that the publicity handout that has been developed by the P.R. office?

A Yes.

Q And that, in fact, has gone out, has it not?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 4 in evidence.

THE HEARING OFFICER: Any objection?

MR. SHECHTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibit 4 is received in evidence.

* * * *

[114] Q I show you Employer's Exhibit 10 marked for identification, a document dated March 6, 1974, which appears to be a letter to Dr. Dorohty G. Harrison, Director, State Education Department, Albany, New York, from you, J. A. Fishman.

Did you, in fact, send that letter?

A Yes.

Q Did you, in fact, accompany it with the documentation [115] that is appended to that letter?

A Yes.

Q That would include a memo under date of April 22, 1974, from Professor Martin Pomerantz, Chairman, Department of Chemistry, to Dean Arthur Komar, Subject, Projections for the Chemistry Department at Yeshiva University?

A Yes.

Q I notice that this memorandum of April 22, 1974, shows a copy to Vice President Sochol. Why does Vice President Sochol receive a copy of a memorandum like this?

A All of our academic planning at the university has financial implications and financial needs, and therefore, just as I supervised and coordinate the academic planning throughout the university, Dr. Sochol does so with respect to the fiscal wherewithal for such planning. He is the head of what they call the Office of Financial Services, of the university.

* * * *

[154] Q Approximately how many students full and part time, are registered at the Belfer school?

A The Belfer registration was about 120.

Q Do you have a breakdown between a full time and part time, Dr. Fishman?

A Yes. I have 42 full time, 77 part time.

* * * *

Q Approximately how many full time faculty members are [155] there at the Belfer school?

A The full time faculty attached to the Belfer school was about 35 this year.

Q Now, is it customary, Dr. Fishman, for the Dean of each of the schools in the university to report to the academic vice president and president of the institution at the close of each academic year?

A Yes. It's customary for each school to submit an annual report to the Dean.

Q And was such an annual report submitted for the Belfer school at the close of the 1972-73 academic year?

A Yes.

Q Submitted by whom, Dr. Fishman?
A By Dean Komar.
Q And did that report have appended to it reports by the department chairmen of the various departments in the Belfer school?
A Yes.

* * * *

[159] Q Do faculty members of Stern College sit on dissertation committees at Ferkauf?
A Yes.
Q Do you know some who have actually done so in recent years?
A I know that Dr. Sardy herself may have been sitting on dissertations at Ferkauf. There are others.
Q Has Dean Mirsky done so?
A It didn't occur to me. But Dean Mirsky has served on dissertation committees.
Q And Drs. Davidowicz and Vogel from Stern College, have they sat on committees at Ferkauf?
A Dr. Vogel particularly over many years was also teaching and sitting on dissertation committees at Ferkauf. And Dr. Davidowicz as well in more recent years, yes.
Q Now, a dissertation committee would typically have how many faculty members on it, Dr. Fishman, or isn't there anything typical about it?
A There is no hard and fast rule about this. It is typically three members, a chairman and two others.

* * * *

[163] Q Dr. Fishman, how are these joint BA-MA programs developed?
A They were developed as a result of joint faculty committees, planned them, submitted them for approval.
Q When you say joint faculty committees, would you tell the Hearing Officer what you mean?
A Committees of the schools involved. If it involves Ferkauf and Stern, that would be a committee of faculty members of those two schools.
Q And having established those programs, have committees been continued to monitor their progress?

A Yes, committees responsible for the progress of those programs, again, joint committees of the school involved.

* * * *

Q Dr. Fishman, during 1974 has consideration been given to physically moving the primary situs of the Ferkauf [164] psychology department from the graduate center to the main center?
A Yes. There was consideration given to that in the context of consideration that is being given to moving the entire graduate center to the uptown center, to the main center.
Q During 1974, Dr. Fishman, was a committee established for the university-wide articulation of psychology programs?
A Yes, there was.
Q And in the idiom of your university, what is the meaning of the term articulation? What's its common meaning?
A The meaning of articulation is to pull it together and unify it, to coordinate it, so it doesn't operate as separate fragmentary units.
Q On or about February 5, 1974, did you receive a letter from Professor Norman B. Gordon, Chairman of the Department of Psychology of the Ferkauf School?
A Yes.
MR. SCHECTMAN: What is that date?
MR. KRAMER: On or about February 5, 1974.
Q (By Mr. Kramer) Was that letter written for the department of psychology?
A On behalf of, yes, the department of psychology.
Q What was the subject of that letter, Dr. Fishman?
[165] A Dr. Gordon wanted to explain to me in detail why it was that he and his colleagues were so eager to have the psychology department be relocated at the uptown or main campus of the university, so that they could thereby have stronger roots in the undergraduate college, in terms of teaching, and so that the undergraduate instruction could be further improved.
Q Is such a move under consideration?
A Such a move is under consideration.

MR. KRAMER: Would you mark this, please?

(A document was marked Employer's Exhibit No. 15, for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit 15, a letter of three pages under date of February 5, 1974, to you from Norman B. Gordon, Chairman for the department of psychology.

Is this the letter to which you refer?

A Yes, sir.

Q And in this letter, Dr. Professor Gordon suggests that the move from the graduate center to the main center would integrate his department, and I quote now, "in a number of positive ways with undergraduate programs and this result in even greater gains than just a money-saving move to utilize a building."

Did he suggest that?

[166] A Yes.

Q Did he suggest, "that part of such a move might lead to establishment of an all university integration of psychology programs at the undergraduate, subdoctoral and graduate level"?

A Yes.

MR. KRAMER: I'll offer Employer's Exhibit 15.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 15 is received in evidence.

(The document previously marked Employer's Exhibit 15, for identification, was received in evidence)

Q (By Mr. Kramer) In addition, Dr. Fishman, to the February 5, 1974 letter to you, did Professor Gordon, once again on behalf of his department, also write to Dean Joseph B. Gittler on this subject?

A Yes.

Q Did you receive a copy of that letter?

A Yes.

Q Was that on or about—

A A memorandum, was it?

Q I stand corrected.

Did you get a copy of that memorandum?

A Yes.

Q And was it under date of February 7, 1974?

[167] A I believe so.

Q And in this memorandum, Dr. Fishman, among other things, did Professor Gordon suggest that the BA-MA programs recently initiated would be strengthened by the proximity of the graduate facilities and undergraduate faculties involved?

A Yes, sir.

(The document above-referred to was marked Employer's Exhibit 16, for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit 16, marked for identification.

Is this the memorandum to which you have just referred?

A Yes.

Q In this memorandum, did Professor Gordon further note, as an advantage, the fact that, and I quote, "Graduate professors would be more available for undergraduate teaching"?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 16 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Exhibit 16 is received in evidence.

(Document previously marked Employer's Exhibit 16, for identification, was received in evidence)

[168] Q (By Mr. Kramer) Dr. Fishman, I note in the upper right-hand corner of the first page of this exhibit there appears to be a notation "X-3" and under that three names: Socol, Bacon, Mirsky.

I think all those people have been identified. But to make the record clear, would you once again tell us who those people are?

A That's my notation to my secretary to make three Xeroxes and send them respectively to the vice president

for financial affairs Socol, and to Dean Bacon of Yeshiva College and to Dean Mirsky of Stern College, since they would be concerned or interested or involved in this type of discussion.

Q Now, Dr. Fishman, you told us that a university-wide articulation of psychology programs committee has been established at the university?

A Yes.

Q Did this occur at your direction?

A Yes, sir.

Q And did it occur on or about April 16, 1974?

A Yes.

Q And has that committee met?

A It has. I ought to mention that it occurred at my direction but following through on Dr. Gordon's suggestion that such articulation was needed.

Q In other words, this is an integrated process, is [169] it not?

A Yes.

Q And such a meeting was held?

A Yes. Several meetings have been held since.

Q The first meeting was on May 6, 1974, is that correct?

A Yes, sir.

Q And there have been several meetings since?

A Yes.

MR. KRAMER: Mark this, please.

(Document was marked Employer's Exhibit No. 17 for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you a two-page document marked Employer's Exhibit 17, for identification, the first page appearing to be a memo on Yeshiva University paper, under its logo, from you to Deans Bacon, Gittler, Mirsky, with a copy to Professor Jaffe. Who is Professor Jaffe?

A He is the acting dean at the Albert Einstein College of Medicine.

Q The date of April 16, 1974, subject "University wide articulation of psychology programs."

Did you in fact send that memorandum?

A Yes.

Q Now, the second page of this exhibit once again on a memorandum form, under the logo Yeshiva University, is [170] a memorandum to President S. Belkin, apparently from you.

A Yes.

Q Under date May 6, 1974, subject: "Committee on university wide articulation of psychology."

Did you in fact write that memorandum?

A Yes.

Q Now, the second page contains certain abbrevations, one being AECOM.

What does that stand for?

A That's Albert Einstein College of Medicine.

Q And FGS?

A Ferkauf Graduate School.

Q And SCW?

A Stern College for Women.

Q And YC?

A That's Yeshiva College.

MR. KRAMER: I'll offer Employer's Exhibit 17 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 17 is received in evidence.

(Document previously marked Employer's Exhibit 17, for identification, was received in evidence)

Q (By Mr. Kramer) Now, you've told us, Dr. Fishman, [171] that Professor Gordon's letter of February 5, 1974, and his memo of February 7, 1974, were prompted by an overall discussion of the movement of the graduate center facilities to the main campus, is that correct?

A Yes.

Q And is such a move under consideration?

A Yes.

Q Did there come a time in November, 1973, when you addressed the executive council of the university with respect to this consolidation?

A Yes, sir.

Q And in making that address did you read from a text?

A Yes.

(A document was marked Employer's Exhibit 18 for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you a document marked Employer's Exhibit 18 for identification, again on memo form under the logo Yeshiva University, to Deans and Directors, from Joshua A. Fishman, date, November 6, 1973, subject: "Consolidation of graduate and undergraduate campuses."

This document starts out:

"In order to safeguard and strengthen the viability and growth of Yeshiva University in these most difficult times, President Belkin has asked me to communicate to you [172] his decision on principle to consolidate at the current main campus the academic work currently being conducted by Yeshiva College, the Bernard Revel graduate school, the Belfer Graduate School of Sciences, the Ferkauf Graduate School and the Wurzweiler School of Social Work.

"This step pertaining to a move that has been suggested and considered informally in the past is being turned to now for extremely compelling reasons and obviously requires our wholehearted consideration and full support of its successful implementation."

Is this the statement that you read to the executive council?

A Yes.

Q Not only the paragraph I read but the main paragraphs as well, is that correct?

A Yes, sir.

Q There is a notation in the right-hand corner of this exhibit which is apparently in your handwriting?

A Yes.

Q Would you read it into the record for us?

A "Read at executive council November 6, 1974."

Q Was that notation made at the time you read it?

A Yes.

Q By you?

A Yes.

[173] MR. KRAMER: I offer Employer's Exhibit 18 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 18 is received in evidence.

(The document previously marked Employer's Exhibit 18, for identification, was received in evidence)

Q (By Mr. Kramer) Now, I note in the second paragraph of this letter it states that, "A number of planning committees will need to be appointed, some of them within schools and some of them between schools, to deal with matters such as the foregoing which can be grounded under four broad rubericks:

A, Planning an academic facilities, B, planning student and faculty services, C, planning general academic work and activities, D, planning Jewish academic work and activities."

You then continued, Dr. Fishman—

MR. SCHECTMAN: Excuse me, Mr. Hearing Officer. I object.

MR. KRAMER: I will not read any further from the exhibit at this point.

Q (By Mr. Kramer) Were these committees in fact formed?

A Some committees were formed. Some were not.

[174] Q In which areas were committees formed?

A A committee was formed for space planning, planning of space, the physical facilities planning in connection with the consolidation or in connection with a consolidation, and a committee considered also the academic planning that was necessary in connection with consolidation of campuses.

MR. SCHECTMAN: I'm sorry. Could I have that response read back. I missed it.

HEARING OFFICER: Okay.

(The record was read by the reporter)

Q Now, Dr. Fishman, you've told us about several BA-MA programs between Ferkauf College and various undergraduate schools in the university.

To your knowledge, has there also been planning for a BA-MA program in general education between the Ferkauf School and Yeshiva College?

A There was planning for that, yes. There is no such program in effect, but there was planning of such a program.

Q And why is no such program in effect at this time, if you know?

A Teaching doesn't seem to be a favorite professional goal of the boys in Yeshiva College. There just doesn't seem to be sufficient student interest in that field.

But on the chance that there would be, such a program was planned.

Q And who did the planning Dr. Fishman?

[175] A The planning was done primarily by the Ferkauf faculty with the few people at the college that have in the past, when there was interest in teacher education at the college, conducted courses in that area.

Q And when did this planning take place, as best you recall?

A That planning was done at the end of '72-73 academic year, the beginning of the '73-74 academic year.

Q And by a committee?

A Yes.

Q And was that an interscholastic faculty committee?

A Interschool committee.

(A document was marked Employer's Exhibit 19 for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit marked 19 for identification, a three-page document, the first page of which under the logo The Yeshiva University, has the title "Members of the

committee for the BA-MA in education," and the next two pages which are headed, at least on the second page by the following: Minutes of Meeting of subcommittee on university bachelor-masters programs."

Is this the joint BA-MA committee in education to which you have just referred?

A Yes. That's the committee that planned that program [176] between Ferkauf and Yeshiva College.

Q And these are minutes of that committee?

A Yes.

Q Taken from your file?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 19 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 19 is received in evidence.

(The document previously marked Employer's Exhibit 19, for identification, was received in evidence)

Q (By Mr. Kramer) Now, Dr. Fishman, is there currently under way interschool planning for the continuation or revision of the masters program in communications at the Ferkauf Graduate School?

A Yes. There is a joint planning committee for a new masters level program in communications.

Q This committee consists of a faculty from the Ferkauf Graduate School, is that right?

A Yes.

Q From the Stern College for women?

A Yes.

Q And from Yeshiva College, is that right?

A Yes.

[177] Q On or about February 22, 1974, did you receive a copy of a memo from Dean Gittler to various faculty members in these schools pertaining to that program?

A Yes.

Q And that committee?

A Yes.

• • • •

[178] Q (By Mr. Kramer) Tell us about this memorandum, Dr. Fishman.

A In this memorandum, Dean Gittler thanks all those to whom he had sent it for their—for having gotten together previously to plan this joint masters program [179] in communications, and indicates which of them had been selected at that previous meeting to be the subcommittee to continue the planning.

Q And who was the subcommittee selected, Dr. Fishman?

A Professors Horner and Fowles of the Ferkauf Graduate School, Professors Shram of Stern College for Women, and Professor Keating of Yeshiva College, with Dean Gittler ex officio, and Professor Horner of the Ferkauf School as Chairman.

And he goes on to spell out the various things that they had agreed upon in their previous meeting, the number of credits and the nature of the program, the thrust of the program, and that he has asked Dr. Horner to convene the subsequent. And when a draft of the program is completed, a draft of the program that the committee will recommend is completed, then it will go for further study and approval to the Ferkauf Graduate School curriculum committee, to the graduate council of the university, and to the executive council of the university.

* * * *

[183] Q Does the Wurzweiler School participate in a joint BA-MSW program?

A Yes.

Q With what other college faculties, Dr. Fishman?

A It has a joint program together with the Erna Michael School and Yeshiva College.

Q How is that program developed, Dr. Fishman?

A It was developed under the leadership of the Wurzweiler faculty jointly with faculty in the other two colleges.

* * * *

[184] Q Dr. Fishman, does the Bernard Revel faculty participate in a joint BA-MA Program in Jewish studies?

A Yes. There is a joint BA-MA program in Jewish

studies between Bernard Revel, Yeshiva College, Erna Michael College and Stern College.

Q And how was that program developed, Dr. Fishman?

[185] A It was developed by a faculty committee, drawing on the faculties of those colleges.

Q And is there a committee in existence to monitor the operation of that program?

A Yes, there is.

Q Is this an interschool committee?

A An interschool committee between those four schools.

* * * *

[205] Q Now, Dr. Fishman, you have talked about certain BA and MA programs, certain BA-MS programs and a BA-MSW program, all of which you told us require interschool coordination.

Do there also exist university wide interschool committees which deal with various academic matters?

A Yes.

[206] Q Might these also be called subcommittees?

A Could be subcommittees or committees.

Q Are they in fact university wide committees on the articulation of mathematics, physics, psychology, sociology, statistics, eduation, communications and Judaic studies?

A There are committees on all of those fields, yes.

Q Now, in preparation for this case and at my request have you had prepared rosters of each of these faculty committees?

A Yes, sir.

Q They are faculty committees, are they not?

A They are faculty committees.

Q And does each roster show the base appointment of the faculty member involved?

A Yes, sir.

(A document was marked Employer's Exhibit 29, for identification.)

Q (By Mr. Kramer) I show you Employer's Exhibit 29, marked for identification.

Would you tell us what this exhibit is?

A This is the committee concerned with mathematics and physics instruction at the university.

Q Well, would you refer to the entire exhibit, Dr. [207] Fishman, which is eight pages.

A The second committee is the committee concerned with the planning of psychology throughout the university. The third committee is a planning committee for a future program in sociology at the university.

The fourth committee is an interschool committee on statistics, graduate program in statistics at the university.

The fifth committee is a committee for the coordination of educational programs at the university, that is teacher education, professional teacher education at the university.

The sixth committee is the committee for planning the new communications program at the university. Committees seven A and seven B are committees for Judaic studies at the university.

Q Now is it a fact, Dr. Fishman, that each and every one of the committees you've just referred to has on it both members of the faculty of graduate schools and members of the faculty of undergraduate schools or an undregraduate school?

A Yes. That's true for each of the committees.

Q Each and every one of these committees crosses the graduate-undergraduate line?

A Yes.

* * * *

[210] Q (By Mr. Kramer) Dr. Fishman, is there currently in existence at your university a subcommittee on BA-MA Jewish studies?

A Yes.

(A document was marked Employer's Exhibit 30, for identification.)

Q (By Mr. Kramer) I show you Employer's Exhibit 30, marked for identification, a document entitled "subcommittee on BA-MA Jewish studies."

Is this in fact a subcommittee?

A Yes, sir.

MR. KAMER: I offer Employer's Exhibit 30 in evidence.

Q (By Mr. Kramer) Is there currently in effect at your university a committee or subcommittee on BA-MA Chemistry?

A Yes, sir.

Q Do you know that for a fact?

A Yes, sir.

* * * *

[212] Q (By Mr. Kramer) Is there currently in existence at your institution a subcommittee on Bachelors-Masters, physics?

A Yes, sir.

Q I show you Employer's Exhibit 32, marked for identification, entitled "Subcommittee on BA-MA Physics," with a list of names and school affiliations.

Is that in fact a committee?

A Yes, sir.

Q And should that also be entitled BA-MS Physics?

A It should be corrected.

(Discussion off the record)

HEARING OFFICER: Back on the record.

Q (By Mr. Kramer) Based on discussions we have had off the record, Dr. Fishman, let me ask you again whether the title subcommittee on BA-MA Physics is correct or not?

A Yes, it's correct.

Q You have been so advised by the dean of the Belfer School who is in the room, is that correct?

A Yes.

* * * *

[213] Q (By Mr. Kramer) Dr. Fishman, do you have at your university at the current time a subcommittee on BA-MA Mathematics?

A Yes, sir.

* * * *

[215] Q (By Mr. Kramer) Dr. Fishman, does Yeshiva University have a subcommittee on BA-MA in Psychology?

A Yes, sir.

Q Is it in existence at the present time?
A It is.

• • • •

[216] Q (By Mr. Kramer) Finally, Dr. Fishman, is there a subcommittee on BA-MS in social work at Yeshiva University?
A Yes, sir.
Q I believe you told us previously there is a BA-MSW program at the University, is that so?
A Yes.

• • • •

[217] Is it correct that each and every one of these subcommittees has on it representatives of graduate faculty and undergraduate faculty?
A Yes, sir.
Q Without exception?
A Yes, sir.
Q Now, Dr. Fishman, in addition to the committees, faculty committees you've just testified about, is there also presently in existence at Yeshiva University a university committee on joint programs?
A Yes, sir.
Q Is this an administrative committee as opposed to a faculty committee?
A Yes.
Q Who serves on this committee, Dr. Fishman?
A Deans of the various undergraduate and graduate schools.

[218] (A document was marked Employer's Exhibit 36, for identification.)

Q (By Mr. Kramer) Dr. Fishman, I show you Employer's Exhibit 36, marked for identification, a document entitled "University committee on joint programs."
Is this the roster of the committee about which you've just testified?
A Yes, sir.
MR. KRAMER: I offer Employer's Exhibit 36 in evidence.
MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 36 received in evidence.

(Document previously marked Employer's Exhibit 36, for identification, was received in evidence.)

Q (By Mr. Kramer) Dr. Fishman, is there currently in existence at Yeshiva University a committee on grants?
A Yes, sir.
Q And is this a mixed committee of administration and faculty?
A Yes, sir.

• • • •

[220] Q (By Mr. Kramer) Dr. Fishman, does the university have a business computer?
A Yes.
Q Does it also have an academic computer?
A Yes, it has. It has two academic computers.
Q It has two academic computers.
Let's return to the business computer for a moment. For what purpose is the business computer used?
A The business computer is used in connection with all of the fiscal records of the university, including payrolls.
[221] Q Does it service all the schools of the university?
A Yes.
Q And all the central administration?
A Yes.
Q You told us there are two academic computers. Where are those academic computers located?
A The basic academic computer is at the medical college.
Then there are terminals for academic computer use, and one of them Belfer also had some—can also be used as a computer for—in itself, rather than just as a terminal from the Medical College.
Q Which faculty department is responsible for the management of the law jacked demi-computes located at the Medical School?

A I associate to the name of Professor Landovitz with it.

Q In what department is he?

A I believe mathematics.

Physics.

Q And that would be at the Belfer School, is that correct?

A He is at the Belfer School. The computer is at the medical college.

Q Right. Is there a university wide academic computer committee?

A Yes.

[222] (A document was marked Employer's Exhibit 38, for identification.)

Q (By Mr. Kramer) Now, I show you a document marked Employer's Exhibit 38 for identification, entitled "University wide academic computer committee."

Is there such a committee in existence at the university?

A Yes, sir.

Q And is this the roster of that committee?

A Yes.

Q Now, I notice that one gentleman, A. Myers, has no school affiliation annexed to his name.

Do you know for whom he works?

A No, sir.

MR. KRAMER: We would be prepared to stipulate that Mr. Myers is a non-faculty employee in the office of financial services of the university. His precise title is Director of Data Processing.

MR. SCHECTMAN: So stipulated.

HEARING OFFICER: The stipulation is received.

Any objection to the exhibit?

MR. KRAMER: One last question.

Q (By Mr. Kramer) Would you point out to the Hearing Officer anyone on that list who is an administrator?

[223] A The administrators I recognize are I. Bacon, Yeshiva College; J. Gittler, Ferkauf; S. Hoenig, Revel;

E. Jaffe, Einstein; A. Komar, Belfer; D. Mirsky, Stern; W. Rosenthal, Wurzweiler; S. Socol, Vice President for Business Affairs.

Q Would it be correct to say that is a mixed faculty-administration committee?

A Yes, sir.

* * * *

[246] Q Dr. Fishman, I show you Employer's Exhibit 29, particularly the first page of that exhibit entitled "One, Mathematics, Physics," a page that has been withdrawn from evidence.

During the period since the last hearing, since June 11, have you check to determine whether there is a math-physics Liaison committee?

A Yes.

Q And is this the committee?

A That is the committee.

Q And is it in fact an active committee?

A It is an active committee.

Q Having met this year?

A Yes.

* * * *

[247] Q Now, Dr. Fishman, let us turn for a moment to the goverance of the university.

You told us that the ultimate governing body is the board of trustees; is that correct?

A Yes.

Q Is that so for the entire university?

A Yes.

Q For all schools?

A Yes.

Q And who is the chief executive officer of the university?

A The president.

Q Are there vice presidents serving under him?

A Yes.

Q What are their titles, Dr. Fishman?

A Vice president for student affairs; vice president for business affairs. There is a vice president for academic affairs.

Q And that is the same vice president for student affairs for all of the schools?

A Yes.

Q And the same vice president of academic affairs for all of the schools?

A Yes.

[248] Q And the same vice president for business affairs for all of the schools; is that correct?

A Yes. With the college of medicine excepted.

MR. KRAMER: We ought to note for the record that unless we say otherwise, we are not dealing with the college of medicine.

It is my understanding that it is not petitioned for.

MR. SCHECTMAN: It is my understanding that the university has stipulated that it will not be considered as part of the corporate unit.

MR. KRAMER: I don't know that we stipulated to that effect. We assume that the board would so conclude.

Q Is there also a body called the board of governors of the graduate school?

A Graduate schools.

Q Is that an advisory body or a governing body?

A It is an advisory body to the board of trustees.

Q Who created the board of governors of the graduate school?

A It was created by the board of trustees.

Q Would that be in or about February of 1973?

A About a year and a half ago.

Q Is there any reference to the board of trustees in the charter—strike that.

Is there any reference to the board of governors of the [249] graduate school in the university's charger and enabling documents?

A Yes.

Q By "enabling documents," Dr. Fishman, I mean all the amendments to the charter.

A Yes.

Q I take it there is no such reference?

A Yes.

Q Those are in evidence, are they not, as Employer's Exhibit 1 in this proceeding?

A Yes.

Q Does the board of governors have a role in development?

A That is the major role of the board of governors of the graduate schools, to help in fund-raising for the university.

Q Is that what the development is called in the university parlance?

A Yes.

Q Has the board of governors the authority to hire anyone or fire anyone?

A No.

Q To establish any wages, hours or working conditions?

A No.

Q Or to direct the establishment of any wages, hours or working conditions?

A No.

[250] Q To remove any of the officers or professors of the university?

A No.

Q Or any other members of its faculty?

A No.

Q Now, putting aside the advisory board of governors of the graduate schools that we have just discussed, is there in addition to the board of trustees of the university a university executive council?

A Yes.

Q And would you tell us who makes up the executive council?

A The executive council consist of the deans of the various schools, the directors of the various divisions of the university, whether they be academic divisions or other divisions.

Q Are they elected, Dr. Fishman, or are they appointed?

A Appointed. You mean to office or this committee?

Q To the committee.

A They are appointed to the committee.

Q For that matter, Dr. Fishman, are there elected officers or appointed officers?

A To my knowledge all of these officers are appointed. I know they are all appointed to the committee.

Q Appointed to the committee by whom?

A The president.

[251] Q Appointed to office by whom?

A The president.

Q With the concurrence of the board of trustees of the university; is that correct?

A Yes.

Q What is the function, or what are the functions, of the executive council?

A The executive council meets frequently, normally twice a month, to share all of the academic and administrative problems of the university, to be sure that all deans and directors are aware of what is occurring, and what is of concern to any part of the university.

Q As matters stood during the academic year 1973-74, Dr. Fishman, did the executive council issue instructions or directives to the administration of the university?

A The executive council is primarily a recommending body, it discusses issues that are brought to it by responsible authorities anywhere in the university, and then recommends to them, but essentially to the president who then issues directives.

Q I see.

Now, in addition to the executive council are there also elected councils at the university?

A Yes.

Q How many of them are there?

[252] A There is the graduate council, there is the undergraduate council, various elected committees. I am not sure if you are referring to them.

Q There is the graduate council?

A Yes.

Q And there is the undergraduate council?

A Yes.

Q Now, let's turn to the graduate council for a moment.

Would you tell us how that council is constituted?

A That council consists of elected student and elected faculty representatives from each of the graduate schools, as well as a number of appointed administrative officers throughout the university.

MR. KRAMER: Will you mark this Employer's Exhibit 48 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 48 for identification.

(Employer's Exhibit 48 marked for identification.)

Q I show you a document entitled "Membership List, Academic Council of the Graduate Schools of Yeshiva University." Was this list prepared by someone under your supervision and control?

A Yes.

Q To the best of your knowledge is this list correct?

A Yes.

[253] Q And this list includes both faculty and students, does it not?

A Yes, their names and addresses.

Q It is entitled "Academic Council of the Graduate Schools, Yeshiva University." Is the correct title for this organization "Graduate Council"?

A We call it the graduate council. I am not sure whether the official name is academic council of the graduate schools, or the graduate council.

Q The official name would be in the faculty handbook, would it not?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 48 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 48 is received in evidence.

(Employer's Exhibit 48 received in evidence.)

Q Mr. Fishman, you told us that there is also an undergraduate council; is that correct?

A Yes.

MR. KRAMER: Will you mark this Employer's Exhibit 49 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 49 for identification.

(Employer's Exhibit 49 marked for identification.)

[254] Q I show you Employer's Exhibit 49 for identification, a document that purports to be a list of undergraduate council 1973-74.

Is this in fact such a list?

A Yes.

Q How is the undergraduate council constituted?

A The faculty and student representatives are elected from the undergraduate schools, and the administrative representatives are appointed.

Q I see you sit on this council, Dr. Fishman.

A Yes.

Q I see that you, referring to Employer's Exhibit 48, also sit on the graduate council.

A Yes.

Q Is that correct?

A Yes.

Q That there are essentially administrative personnel in addition to yourself on both councils?

A Yes.

Q Turning a moment to Employer's Exhibit 49, the first line says "This is the list of undergraduate council as given to me by the 1973-74 secretary."

Was this list in fact given to you by the secretary of this council, the 1973-74?

A Yes.

[255] Q Is it correct to the best of your knowledge?

A Yes, it is.

MR. KRAMER: I offer Employer's Exhibit 49 in evidence.

HEARING OFFICER: It will be received in evidence.

(Employer's Exhibit 49 received in evidence.)

Q Dr. Fishman, will you tell us what the function of the graduate council is supposed to be?

A The purpose of the graduate council is to enable graduate faculty and students and university administrators normally to be concerned with the problems that they all face together, common problems to the graduate level. It could be problems from any level of the university that have graduate level consequences, have implications for graduate students or graduate faculty.

Q Is the subject of integration with the undergraduate programs a subject for the graduate council?

A It certainly would be a subject that they would be concerned with.

Q Will you tell us what the function of the undergraduate council is?

A Similarly, the undergraduate council is concerned with whatever issues are common to undergraduate faculty and undergraduate students, and that arise anywhere in the university and have implications for undergraduate instruction.

Q Would the subject of integration with the graduate schools, [256] graduate faculty, for that matter graduate students, be a subject for the undergraduate council?

A Yes, it was been the subject.

Q It has been the subject?

A Yes.

Q At meetings you have attended?

A Yes.

Q Now, you have referred in addition to these two elected councils, Dr. Fishman, to an appointed council called the executive council, have you not?

A Will you repeat the question?

MR. KRAMER: Repeat the question.

(Question read.)

A Yes.

MR. KRAMER: Will you mark this Employer's Exhibit 50 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 50 for identification.

(Employer's Exhibit 50 marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit 50 for identification, a document entitled, "Yeshiva University, Members of the Executive Council, 1974-75."

Is this a roster of the executive council?
A Yes.

* * * *

[258] Q Dr. Fishman, is the executive counsel and are the graduate councils and undergraduate councils referred to in a document called "Faculty Handbook"?
A Yes.
MR. KRAMER: Will you mark this Employer's Exhibit 51 for identification.
HEARING OFFICER: Mark it Employer's Exhibit 51 for identification.

(Employer's Exhibit 51 marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit 51 marked for identification, a document entitled "Faculty Handbook." Is [259] this in fact the faculty handbook?
A Yes.
Q And except as otherwise noted within the book itself, does this handbook cover the entire faculty of Yeshiva University?
A Yes.
Q On May 20, 1974, was an amendment promulgated to this handbook?
A Yes.
Q That amendment is not in the form, is it, for insertion into this book?
A No.
MR. KRAMER: For the record, there is what they call a split binding on this book.
Q Is that right?
A Yes.
Q This amendment is by memo, I take it; is that right?
A The revision of the handbook to which that memo refers is in the handbook. The memo is a notification to the deans to please point out that revision to the faculty so that they make appropriate changes in the handbook.
Q Just so the record is clear, the revision contained in the memo which you just referred to is, that printed in some way in Employer's Exhibit 41 that is marked for identification?

A The revision in the enture policies in the handbook, [260] because prior to that memo a new statement was distributed to be included in the handbook. I assume it is in here.
MR. KRAMER: Will you mark the Employer's Exhibit 52 for identification.
HEARING OFFICER: Mark it Employer's Exhibit 52 for identification.

(Employer's Exhibit 52 marked for identification.)

Q Now, I show you Employer's Exhibit 52 marked for identification. Was this exhibit, which is a memorandum dated May 20, 1974, subject Outside Employment, from you to Deans Bacon, Gitler, Hoening, Jaffe, Comar, Mirsky and Rabinowitz in fact sent?
A Yes.
Q Now, the first paragraph of Exhibit 52 marked for identification refers to a revised tenure statement; is that correct?
A Yes.
Q Is that revised tenure statement included in Employer's Exhibit 51 marked for identification?
A Yes.
Q Now, the second paragraph of Employer's Exhibit 52 requests the deans to please ask all full-time members of their faculty to make the appropriate correction in the section of the faculty handbook dealing with faculty load so that it will read, and there is a quote.
A Yes.
[261] Q Is that appropriate correction embodied in Employer's Exhibit 51?
A No.
When the tenure statement was changed, a new page of the handbook was distributed for insertion. But that change has implication to the second section that you are now referring to, the faculty load section.
So this memo asks the people to do it by hand.
Q The faculty load section of the handbook is found on page 7 of Employer's Exhibit 51?
A Yes.

Q And it is modified by Employer's Exhibit 52; is that correct?

A Yes.

MR. KRAMER: I offer Employer's Exhibits 51 and 52 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 51 and 52 are received in evidence.

(Employer's Exhibits 51 and 52 received in evidence.)

Q Now, Dr. Fishman, the handbook which is in evidence as Employer's Exhibit 51 as amended by Employer's Exhibit 52 makes reference to a faculty—a university faculty review committee.

Are you familiar with that committee?

[262] A Yes.

Q Will you tell us what the functions of the university faculty review committee are?

A It is a university-wide grievance committee to which any faculty grievance could be brought, but its primary function is for the review of grievances pertaining to nonpromotion, a faculty member who has not been promoted for a long period of time, I believe it is ten years, can appeal to the grievance committee automatically, automatically has his case reviewed by the grievance committee.

But a faculty member not promoted at any time, or not given tenure at any time, can bring his grievance to the grievance committee.

Q How is this grievance committee constituted?

A The grievance committee consists of elected representatives of the various schools.

Q When you say of the various schools, do you mean all of the schools?

A All of the schools.

Q In other words, it is a fact, then, Dr. Fishman, that undergraduate faculty, that is, faculty having their base appointments in undergraduate schools, actually sit on the grievances filed by graduate faculty?

A Yes.

Q And of course vice versa?

[263] A Yes.

Q Does the university faculty review committee have prodedural bylaws?

A I really don't know.

MR. KRAMER: Will you mark this Employer's Exhibit 53 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 52 for identification.

(Employer's Exhibit 52 marked for identification.)

Q Is it that you don't know whether the committee has bylaws, or whether the bylaws are called procedural bylaws?

A I didn't realize it had a document called procedural bylaws.

Q You understood that it had bylaws, did you not?

A I understood that it had established ways of functioning.

Q Now, I show you Employer's Exhibit 53 marked for identification, a document entitled "University Faculty Review Committee Procedural Bylaws." Were these bylaws drawn from your files?

A Yes. I have files of all the committees.

Q To your knowledge, Dr. Fishman, are these the bylaws of the university faculty review committee?

A This is what I would go to to find out how the faculty review committee functions, look it up under faculty review committee, and this is what I would find.

[264] Q This is what you found in your files?

A Yes.

Q Did you have reason to be involved with the faculty review committee during the 1973-74 school year?

A No.

MR. KRAMER: We offer Employer's Exhibit 53 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 53 is received in evidence.

(Employer's Exhibit 53 received in evidence.)

Q Dr. Fishman, has the university faculty review committee actually handled any grievances?

A This year it had a number of informal issues, but it hasn't had any formal grievances to pass upon this year.

Q That is this year, how about in prior years?

A In prior years it has had formal grievances.

Q Has it received grievances from graduate faculty?

A Yes.

Q Do you recall from what schools?

A Is has received grievances over the last few years that I recall from Albert Einstein College of Medicine, from the Ferkauf School, and from the Wurtzweiler School. The ones I remember.

Q Members of the faculty in this schools?

A Yes. Faculty members primarily based at those schools.

[265] But a large part of its business is informal, as faculty members will informally check with the chairman as to what does he advise them in connection with the grievance that he has.

Q Do you have any recollection of the names of the faculty members that are involved?

A I don't remember the names, I just remember the schools involved, because it was something I looked up.

MR. KRAMER: Will you mark this Employer's Exhibit 54 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 54 for identification.

(Employer's Exhibit 54 marked for identification.)

Q I show you Exhibit 54 marked for identification. Will you look at it?

A Yes.

Q Does this exhibit refresh your recollection?

A Yes, these are the names that I extracted from the records when I was trying to find out what schools had made use of the faculty review committee.

Q Would you tell the hearing officer the faculty members?

A There are Dr. J. J. Smith at Einstein; Dr. H. Rappaport at Einstein; a Dr. N. Greenberg at Wurtzweiler, and a Dr. S. Simonson at Ferkauf.

MR. KRAMER: I am not going to offer Exhibit 54 for [266] identification, but I will leave it here.

Q Dr. Fishman, in addition to the many committees that you have testified to, and several councils that you have referred to, are there various school committees that deal with various subject matters?

A Yes, there are several such.

Q Would you give us some examples of the kind of school committees that are found in the university?

A Most schools will have a curriculum committee, a promotion committee, depending upon the size of the faculty they will have more or less committees. Most schools will have an admissions committee. Schools might have a standards committee.

Q Does each undergraduate school have committees?

A Yes.

Q Each one has its own set of committees?

A Yes.

Q Stern has them?

A Yes.

Q Yeshiva College has them?

A Yes.

Q Erna Michael has them?

A Yes.

Q And of course each of the graduate schools has its own set of committees, does it not?

[267] A Yes.

Q Now, do each of the undergraduate schools have a set of bylaws, or governance documents?

A Yes.

Q For that matter, one governance in each school?

A There are governance documents for the governance bodies that schools have.

Q That is so in Stern?

A Yes, there is a governance document.

Q There is one for Yeshiva?

A There are actually two such documents.

Q And there are also governance documents in existence for Belfer?
A Yes.
Q And Ferkauf?
A Yes.
Q And the other graduate schools?
A Yes.
Q There is no one single governance document in existence for the undergraduate schools?
A No.
Q And there is no one single governance document for the graduate schools?
A No. Other than the faculty handbook.
Q Which covers all of the schools, all of the university?
[268] A Yes.
Q Now, are you in a general fashion familiar with the Yeshiva College faculty assembly, and the Yeshiva College senate?
A To some extent.
Q Will you describe for us in lay terms, Dr. Fishman, the function of the Yeshiva College faculty assembly and how it is constituted?
A The faculty assembly consist of all full-time faculty members involved in the instruction of Yeshiva College in any particular academic year.
Q That is so regardless of their base appointment?
A Yes.
Q Are members of the Belfer faculty eligible to be members of the faculty assembly at Yeshiva College?
A Those who are teaching undergraduate courses at Yeshiva College in any particular year will be members of the Yeshiva College assembly that year, since most of them are doing so they are most of them members.

* * * *

[269] Q Dr. Fishman, I show you Employer's Exhibit 55 marked for identification, a document entitled "Yeshiva University, Yeshiva College Faculty Statute." Is this in fact the faculty statute of Yeshiva College?
A Yes.

Q Turning to page 5, Dr. Fishman, is the X out there or cross-out in fact, does that represent a deletion from that statute?
A Yes.
Q And I take it, Dr. Fishman, that the faculty assembly to which you referred is the same faculty assembly that is found under the heading II, Faculty Assembly, on page 2 of this exhibit?
A Yes.
[270] MR. KRAMER: I will offer Employer's Exhibit 55 in evidence.
MR. SCHECTMAN: No objection.
HEARING OFFICER: Exhibit 55 is received.

(Employer's Exhibit 55 received in evidence.)

BY MR. KRAMER:

Q There is also a line-out on page 4 of the exhibit. I would assume that would also represent an amendment?
A It is part of the same section.
Q Dr. Fishman, do similar faculty statutes exist at the other undergraduate schools?
A Yes.
Q And at each of the undergraduate schools?
A Yes.
Q Now, you made reference a few moments ago to a Yeshiva College senate?
A Yes.
Q Can you tell us what the function of that senate is?
A The senate at the college meets more frequently than the assembly, and also has student representatives.
Q And what is its function?
A Its function is to review all ongoing concerns as they occur without appreciable delay, whereas the assembly meets regularly only twice a semester, important affairs, particularly affairs that concern the students, so that they should [271] not be delayed, are brought immediately to the senate.
Q Are members of the faculty who have base appointments in graduate schools who are teaching in Yeshiva

College able to run for and serve on the Yeshiva College Senate?

A Yes.

Q Has a Belfer faculty member teaching at Yeshiva College actually run for the Yeshiva College senate?

A In recent times I know of one.

MR. KRAMER: Will you mark this Employer's Exhibit 56 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 56 for identification.

(Employer's Exhibit 56 marked for identification.)

Q I show you Employer's Exhibit 56 marked for identification, a document entitled "Yeshiva University, Yeshiva College, Constitution of Yeshiva College Senate."

A Yes.

Q Is this in fact the Yeshiva College constitution?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 56 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 56 is received.

* * * *

[274] Dr. Fishman, let's turn for a moment to the departmental structure of the university.

Will you tell us how that is arranged?

A Many schools are organized in terms of departments. Some are not, they are organized in terms of divisions or in terms of programs rather than departments.

Q When a field is taught to both undergraduates and graduates, what is the departmental setup, or setups?

A If a field is taught at both graduate and undergraduate levels, there are normally some structure in each school, maybe a department in one and a division in the other, but then there will be some kind of linking structure so that there will be a relationship between the graduate and the undergraduate instructions.

Some of those structures are older than others, some are quite recent.

The university has been building up those links more and more over time. Most of the programs began, the earliest programs began as undergraduate ones. So therefore when the graduate ones were added, after that links were added between [275] them, between the graduate and undergraduate.

The links are liaison committees or working committees that tie the programs together.

Q Dr. Fishman, let me show you the faculty handbook for a moment, Employer's Exhibit 51 in evidence, and more particularly to page 5 thereof.

I note there references to the executive council, the council of graduate schools, and the council of undergraduate schools.

Are these the councils to which you have already testified?

A Yes.

Q Dr. Fishman, on page 6 there is a reference to faculty appointments. Is it a fact, Dr. Fishman, that most faculty members, regardless whether they are paid on a nine-month, which is a ten-installment, or a 12-installment basis, work nine months a year?

A Yes, that is the ordinary academic year that the faculty teach.

Q And their regular salaries are related to that nine-month period?

A Some of them actually prefer to get paid all of their annual salary in those nine months, others prefer to have it spread out over all twelve months even though they are just teaching the nine months.

[276] Q The full-time work year is nine months?

A Normally.

Q There is in addition, I take it, a summer session?

A Yes.

Q That would require extra payment, would it not?

A Yes.

Q Now, I refer you to page 7, and more particularly to paragraph B on page 7, which states, "Each school within the university will establish for its faculty regu-

lations defining full-time faculty load in continence with its needs and programs."

Are you familiar with that provision?

A Yes.

Q You told us that full-time faculty load is four graduate courses a semester, or 12 undergraduate contact hours a semester; is that correct?

A Yes.

Q That requirement is not stated in paragraph B, is it?

A No.

Q And paragraph B was published, as the page shows, on September 1, 1967?

A Yes.

Q Where does the four-course or 12 credit-hour requirement come from?

A That was a recommendation of the executive council a few [277] years after this, 1971 if I remember the documents I have seen.

Q That is what is in effect at the university today?

A That is the definition which then various schools implemented.

Q Now, turning to page 7, Dr. Fishman, you have referred in your earlier testimony to the university faculty review committee.

A Yes.

Q Is that the committee referred to on that page, page 8?

A Yes, in connection with the policy governing promotions.

Q Dr. Fishman, do you have a function in connection with promotions?

A Yes.

Q Would you tell us what that function is, please?

A All recommendations for promotions finally wind up on my desk. They start out normally in the faculty member's own department where some consensus is reached that he should be recommended for promotion. Department or division, or whatever the unit is.

Normally that then is communicated to the promotion committee of the school, and if that recommendation is

seconded by them, or acceptable to them, they so recommend to the dean who normally himself has to second that recommendation, has to approve that recommendation. Then he sends it to me. He sends it to the office of the president, which [278] essentially is my responsibility. That is part of my responsibility.

Q Now, this recommendation comes to you, Dr. Fishman, what function do you play with respect to these recommendations?

A I evaluate them, I first of all try to make sure that they are phrased in accord with the promotion policy of the school. The school requires certain demonstrated abilities for associate professor, I review the recommendation to see that it refers to those demonstrated qualities. It could be research, a certain level of eminence, proficiency of teaching, university service. Whatever the requirements are, I try to review the recommendations and see whether it comes within those requirements that the school has put on the record as pertaining to that rank.

Then I try to evaluate it further. For example, if the recommendation says that he is a very eminent researcher and is widely known in his field, I would like to see what is the documentation for that. What are the publications, for example. What is the actual evidence that he is a widely known researcher.

In the course of going through these recommendations, therefore it is common for me to have to be in touch with the dean to ask for additional information, or to express problems that I am having in seeing how that recommendation is arrived at.

[279] Q Now, this year, Dr. Fishman, did you in fact have a conversation with Dean Bacon of Yeshiva College about the qualitative aspects of a particular promotion?

A I have had conversations with almost every dean who has recommended every promotion this year in those terms?

Q Did you also have a conversation with Dean Bacon?

A Yes.

Q Without detailing the faculty member's name, unless that is asked for on cross examination, would you tell us what transpired with respect to you and between you and Dean Bacon with respect to this particular promotion this year?

A The conversation--a conversation that I remember of this kind dealt with the faculty member being promoted to associate professor, or being recommended for promotion to associate professor.

Like most deans, Dean Bacon wanted to be sure that I would understand the recommendation. This is common procedure at the university, that we will informally discuss recommendations even before they are formally made so as to be sure that they are understood, that they are sufficiently well explained, so that they won't run into last minute questions, and so that they don't have to be turned down.

He was briefing me on a recommendation that he was going to make. It appeared from what he said that the faculty member in question had two or three publications in the last [280] several years. I expressed doubt, by their own formulation of requirements for associate professor, two or three publications really was indicative of sufficient research, sufficient scholarly productivity to permit that rank.

Well, it turned out that these publications were books that hadn't been cleared in the way the recommendation was phrased, they were books, which in itself is quite a difference from having two or three journal articles, or two or three books in a few years.

So I then asked would he be kind enough to let me have copies of those books, and he did, and I skimmed one of them and read parts, large parts of another one of them, so as to be able to come to some impression of my own with respect to the substantiation for the recommendation.

Q Was the recommendation submitted to you on a formal basis?

A Yes.

Q Was it subsequently approved by you?

A Yes.

Q Dr. Fishman, I assume that there are areas in the university that are outside of your ken?

A Yes.

Q Do you receive recommendations in those areas?

A Yes.

Q Are you free to consult wih faculty both inside and [281] outside the university with respect to the substance of those recommendations?

A Yes.

Q Based on that consultation, do you draw your own conclusions?

A Yes. For recommendations outside of fields that I am familiar with, the deans very frequently include evidence in terms of recommendations from people outside the university as well. So it becomes clear to me that it is not merely sort of an internal routine rubber-stamp promotion, that people in the field itself consider that recommendation to be of merit.

Q Do you have authority to call those people and talk to them?

A Yes, I do.

Q Without your approval, Dr. Fishman, the promotion would not stand?

A That is correct.

Q No, it would not stand?

A No, it would not stand.

Q Is that so whether the school involved is Ferkauf?

A Yes.

Q Or Belfer?

A It is true for Belfer, Ferkauf.

Q Yeshiva College?

[282] A Yes.

Q For all the schools in the university except the medical school; is that correct?

A Yes.

Q Dr. Fishman, you have told us that there is a graduate council and an undergraduate council.

A Yes.

Q During the month of June did the graduate council create a special committee?

A At its last meeting of this academic year in June it recommended the creation of such a special committee.

Q What was the title of this special committee, the name?

A A committee on priorities and planning, or planning and priorities.

Q Does the committee on planning and priorities include solely the graduate council, or would there be a broader base?

A Their recommendation was the entire graduate council and the entire undergraduate council together be constituted a committee on priorities and planning, university committees on priorities and planning.

Q In essence, they sit together?

A That was their recommendation.

Q Was a chairman of this committee appointed?

A They recommended that Sheldon Socol be appointed.

Q What is the purpose of this committee?

[283] MR. SCHECTMAN: I object to the question, that there is no such committee.

Q Dr. Fishman, do you know whether this proposal by the graduate council has been accepted by the undergraduate council?

A I know that it has been accepted, but I also—but it also has to be brought to the executive council for approval.

Q To your knowledge, Dr. Fishman, is there any reason why this proposal will not be accepted by them?

A There is no reason why it shouldn't be accepted.

Q What will be the purpose of this committee once it is approved by the executive council?

A I can only speak to the recommendation.

Q Would you do so?

A The recommendation is for that committee to review the various needs of the university. These needs each have their own fiscal consequences, and therefore these needs compete with each other for the university's funds.

Therefore, to arrive at an overall plan for priorities in terms of the university's plans across all of the needs of the university, to plan for a long-range approach to the university's needs, and to set priorities.

Q And this approach to integration and cooperation had its genesis in the graduate council?

A Yes.

[284] Q Let's turn to page 9 of the faculty handbook, Employer's Exhibit 51 in evidence.

MR. KRAMER: Strike that.

Q Dr. Fishman, let's turn to the five pages following page 8, none of which are numbered, which are found in Employer's Exhibit 51 which is in evidence. The first of those pages is headed "Statement of Tenure and Appointment Policy."

Dr. Fishman, are those pages in fact the tenure policy of Yeshiva University with the exclusion of Albert Einstein College of Medicine?

A Yes.

Q Is this the revised tenure policy that you referred to earlier?

A This is the recently revised statement.

Q And it applies throughout the university except for Einstein; is that correct?

A Yes.

Q When changes in the tenure policy have been made, Dr. Fishman, they have been made university-wide; is that correct?

A Yes.

Q Again excepting the medical school?

A Yes.

Q Did there come a time in February, 1974, when the academic deans and directors of the university were asked by [285] you to give further consideration to changes in tenure policy?

A Yes, I did ask them to consider further guidelines with respect to tenure without necessarily saying that it would have to be change in the tenure policy.

Q If there were a change, however, it would be on a university-wide basis?

A Yes, I approached them all in this connection.

MR. KRAMER: Mark this Employer's Exhibit 58 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 58 for identification.

(Employer's Exhibit 58 marked for identification.)

Q Dr. Fishman, I show you Employer's Exhibit 58, it is a memorandum to academic deans and directors under the date of February 18, 1974, from you, re: further guidelines re tenure.

Is this a memo you sent to all the academic deans and directors?

A Yes.

* * * *

Q Dr. Fishman, on June 11 you testified at some length [286] about the chemistry, university-wide chemistry department being developed at Yeshiva University; is that correct?

A Yes.

Q You also testified about a doctoral review project of the State of New York?

A Yes.

Q I believe the last of the documentation with respect to this review project is Employer's Exhibit 13 in evidence.

A Yes.

Q And that is the letter, is it not, Dr. Fishman, to Dr. Harrison, the director of the office of doctoral project, from President Belkin under date of May 14, 1974?

A Yes.

Q Now, since the last hearing, Dr. Fishman, has the University received a further report from the New York State Education Department Office of Doctoral Review Project, a report about the chemistry graduate teaching function at Belfer?

A Yes.

Q Will you tell us what the report recommended?

A The report from the doctoral project indicated the ratings that were given to all of the doctoral chemistry programs in New York State, and then classified them into clearly acceptable, provisionally acceptable, and unacceptable, and had a few words to say about each of those programs in order [287] to indicate why they were so classified.

Unfortunately, our chemistry program was classified as unacceptable.

Q Did the State make a recommendation about its continuance or discontinuance?

A It recommended a discontinuance of all the unacceptable programs, including our own.

Q That took place about June 17, 1974, did it not?

A Yes.

Q As a result of the receipt of that letter, Dr. Fishman, did you and others in responsible positions at the university go to Albany to discuss the report with Dr. Harrison?

A I and Dr. Socol and Dr. Pomerantz, who is chairman of the graduate chemistry program, and the man who has planned, or been in charge of the planning for chemistry at the university in the future involving both the graduate and undergraduate departments, we went together in order to ask the review committee to reconsider that classification, and to point out why the program should not be classified as unacceptable given all of the planning that had gone into overcoming exactly those deficiencies they had pointed to.

Q Planning for the development of a university chemistry function and department?

A Yes.

Q Was that emphasized in Albany?

[288] A Yes.

Q Dr. Fishman, if the State persists in its recommendation to the point of decision, what would be the effect on the doctoral program?

A The state would then—the state authorization authorities would de-register the program, and that would mean that the university would no longer be able

to offer such program. Therefore it would have to close that program.

Q You have told us—

A Just close it out.

Q You told us in your testimony just a few minutes ago that the university has a university-wide tenure policy?

A Yes.

Q Assuming that the doctoral program were discontinued, what would be the effect of that policy with respect to the tenured faculty members in chemistry at Belfer?

A We would try to absorb them in the undergraduate, in the remaining chemistry work at the university. Depending on the seniority of the people involved, and depending on the capacity of those remaining programs to absorb people, they would be absorbed just as far as possible.

* * * *

[290] Q Dr. Fishman, you told us about a role you play with respect to promotions, do you also have a role with respect to the granting of tenure?

A Yes.

Q Will you tell us about that role?

A As you will note from that memorandum of mine to all the deans, I am concerned with the balance between tenured and untenured faculty, and therefore when faculty members approach the length of service that brings them close to the time when they would automatically receive tenure were they to continue in their current positions, their current titles, the deans will apprise me of the fact that a decision has to be made as to whether or not these people should be reappointed. Because if they are reappointed, that will automatically provide them with the tenure. Whereas if they are not to be reappointed, the university policy is that they be notified by a certain date, that date being established so as to provide as much time as possible for them to find other positions.

The deans will first call and come and we will discuss the question, and it will normally be decided in terms of

the financial capacity of the university to carry another tenured commitment, and the impact on that department, would that mean [291] that given the fact that it is now more and more difficult to add more faculty to the rolls because of financial concerns with even being tenured than a department may not be able to add any more faculty after that if this new person we are talking about would be appointed.

Of course it is not desirable to let him go. On the other hand, you have to weigh the alternatives, is it more desirable to have a new person come in and provide new thought, new experience, new ideas in the department.

So there is the departmental balance, and the school-wide balance of tenured versus untenured faculty that I am more concerned with. The fiscal issues are taken up with the whole fiscal side of the university planning.

Q Do you attempt to reach agreement with the deans in this area?

A Yes.

Q Have you been able to do so?

A Yes.

Q Dr. Fishman, in the absence of agreement, do you have the authority to deny a tenure recommendation?

A Yes.

Q Dr. Fishman, are you generally familiar with the type of fringe benefits that the university affords full-time faculty?

A Yes, roughly.

Q I am putting aside the medical school for purposes of [292] these questions.

A Yes.

Q Does the university have a pension plan?

A Yes.

Q For all members, full-time members of the faculty?

A Yes.

Q Is the same pension plan available to all of those members of the faculty?

A Yes.

Q Does the university provide full-time faculty with a health insurance and major medical program?

A Yes.

Q Is the same program offered to all full-time members of the faculty?

A Yes.

Q Dr. Fishman, does the university have a tuition remission policy?

A Yes.

Q What do we mean, Dr. Fishman, by tuition remission?

A The university permits close relatives of members of its full-time faculty, for example children of full-time faculty, spouses of full-time faculty, to attend the university at a lower tuition than others. Half of the tuition is remitted, or not charged, or waived for these people.

Q May members of the staff also take courses?

[293] A Certain members of the staff also qualify.

Q Dr. Fishman, is there a regulation governing staff members taking courses at Yeshiva University?

A Yes.

Q Is this a regulation promulgated by the executive council?

A Yes.

Q And does it apply university-wide?

A Yes.

MR. KRAMER: Will you mark this Employer's Exhibit 59 for identification.

HEARING OFFICER: Mark it Employer's Exhibit 59 for identification.

(Employer's Exhibit 59 marked for identification.)

Q I show you Employer's Exhibit 59 marked for identification, a document entitled "Yeshiva University Executive Council, July 15, 1971, Regulations Governing Staff Members Taking Courses at Yeshiva University."

Is this document the document that contains the regulations that you just referred to in your testimony?

A This is a document pertaining to this topic.

MR. KRAMER: I offer Employer's Exhibit 59 in evidence.

MR. SCHECTMAN: No objection.

HEARING OFFICER: Employer's Exhibit 59 is received in evidence.

[294] (Employer's Exhibit 59 received in evidence.)

Q Is the same tuition remission policy the same for all schools?

A Yes.

Q Whether graduate or undergraduate?

A Yes.

Q And the regulation that was just placed in evidence as Employer's Exhibit 59, that applies to all schools both graduate and undergraduate?

A Yes.

Q To your knowledge, Dr. Fishman, putting aside the medical school, when changes have been made in the past by the university in any of its fringe benefits, did they apply equally to the faculty in all schools?

A Yes.

Q Does the university have a sabbatical leave program?

A Policy, yes.

Q Is it found in the policy handbook?

A The faculty handbook, yes.

Q Does the same policy apply in all schools?

A Yes.

Q Dr. Fishman, may a sabbatical leave be taken by a faculty member in any of the schools without approval of the central administration of the university?

A No.

[295] Q Dr. Fishman, did there come a time during 1971-72 when there was a financial crisis at the university?

A Yes.

Q Was that so announced for all to hear?

A Yes.

Q At that time were certain sabbatical leaves suspended?

A Policy at that time was altered, yes.

Q Tell us about that.

A At that time, and since that time, the alternatives that are stated in the policy no longer obtain. The policy statement in the faculty handbook provides a faculty

member who is granted a sabbatical with the opportunity of choosing between a full year sabbatical at half pay, or a half year's sabbatical paid at the full-time rate.

Since the financial difficulties became as serious as they did, a faculty member is no longer able to choose between those two alternatives. If he applies for a sabbatical, and the sabbatical is granted, he must take a full year's sabbatical at half pay.

Q Has that change been made for all schools in the university?

A Yes.

Q No difference between graduate and undergraduate?

A No difference.

Q Now, Dr. Fishman, is there a mandatory retirement age [296] at Yeshiva University?

A Yes, there is.

Q What is that retirement age?

A It is stated in the faculty handbook. It is age 65. But with the permission of the president on a semester-by-semester basis, faculty members who are so recommended by their deans can be permitted to teach through the age of 68.

Q Does that also require the approval of the central administration?

A Yes.

Q Is that a university-wide policy on an emeritus status?

A I would call that a university procedure with respect to an emeritus status.

* * * *

[297] Dr. Fishman, are you familiar with the calendars that exist in the university?

A Yes.

Q By that I mean generally.

A. Yes.

Q Does each school have a separate calendar?

A Yes.

Q Are those calendars roughly equivalent to each other?

A Roughly the same.

Q You told us in your testimony, Dr. Fishman, that the university has a regulation with respect to outside work by full-time faculty members?

A Yes.

Q Is that policy uniform throughout the university?

A With respect to faculty load and outside employment?

Q Yes.

A Yes.

Q With respect to outside employment, is that policy found in Employer's Exhibit 52?

[298] A Yes.

Q Now, you have told us, Dr. Fishman, that the part of Employer's Exhibit 52 under the heading "Faculty Load" represents a change from the portion of Employer's Exhibit 51, the faculty handbook, dealing with faculty load?

A Yes.

Q What is the substance of that change?

A The substance of the change is the capitalized portion there, approval of the president. Previously outside employment required merely the approval of the dean. With the revised tenure policy, approval of the president for outside employment is now required for a faculty member to maintain his tenured status.

* * * *

[308] Q Now, Dr. Fishman, let's turn to the subject of research grants.

Would you explain for us the various types of sponsorship that exists for such research grants?

A Some research is conducted under university sponsorship. Some research is conducted under outside sponsorship. The outside sponsorship may be private foundations, private sources, or public sources, Federal Government, State Government, or other quasi-government support.

Q Now, are such research grants limited to Belfer or Ferkauf faculties?

A No.

Q Are you familiar with the term "principal investigator"?

A Yes.

Q What does that term mean?

A The principal investigator is the person who is in charge of the activity going on in connection with the particular grant.

Q Would it be fair to say that he manages that grant and project?

A He plans it, he runs it, yes. That is his project.

Q Are you now a principal investigator, Dr. Fishman?

A I am.

Q And when you were a member of the faculty were you a principal investigator?

[309] A Yes.

* * * *

[313] Q Is it a fact, Dr. Fishman, that most Belfer faculty are principal investigators?

A Yes.

Q And that some of the Ferkauf faculty are?

A Yes.

Q Now, would you outline for us in a general way, Dr. Fishman, the procedure, the procedures that are used in going about obtaining a grant and putting it into effect?

A The faculty member first has to have an idea which he considers to be novel, a problem which he considers to be novel or unsolved, and which he believes is of interest to some granting agency so that they would support his work on that problem. He may contact them in a preliminary fashion to find out whether it is true that they are interested, to get their advice with respect to how to draw up an application for them.

He will draw up the application, will get the application forms from them, or from the university office where such forms are available. He will consult with colleagues

and people outside the university for advice as to how to put the application, what to include in it, how to formulate it in such a way that it will be most effective.

When he has it written out he will bring it sometimes to a faculty committee at his school that has to approve it. [314] But most frequently to the dean, who has to approve it, to be sure that the space that such a project would call for and the university services and so forth that it would call for can indeed be made available.

It is then forwarded to the vice president for business affairs for his signature, since someone has to signify that the university takes responsibility for this project were it to be granted.

Assuming that he has passed through all these steps the application is then forwarded before the deadline to the granting agency.

Q On occasion, Dr. Fishman, is the application signed by the dean of the particular school involved?

A That varies from agency to agency, but there are occasion in which the agency requests that the dean sign indicating the approval that I mentioned that has to be obtained.

Q The university approval?

A Yes. Some fiscal officer of the university always has to sign regardless whether the dean signs or not.

Q Now, Dr. Fishman, you have told us that the principal investigator generally formulates the idea for the project; is that correct?

A Yes.

Q Does he also specify the manning for the project?

[315] A Part of the application will indicate the personnel that he anticipates is necessary for that project to proceed. It will include his time, and as many other people as he thinks the granting agency will enable him to hire.

Q Are faculty members other than the principal investigator listed by name?

A Yes, if he is aware of the ones that he wants, and they agree, he will list them by name.

Q Are other personnel sometimes listed by name?

A If he is already aware of who they will be, he will list them by name. Otherwise, he will list them by title, the kinds of duties he would expect.

Q Assuming that the grant is approved by the funding agency, what happens then?

A The university receives notification that the grant has been granted, has been approved.

The principal investigator receives notification.

The university's notification normally goes to one of two offices, either to the president or to the fiscal agent, the fiscal officer, usually the vice president for financial affairs who has signed the application indicating the university's responsibility.

Sometimes the dean of the school if he is also named on the application will receive notification.

At that time the university sets up, one of the financial [316] officers, an account for that grant.

The principal investigator begins to communicate, usually through his dean, to that office, indicating that so and so should be put on the grant budget, whether it is a colleague or whether it is an assistant, or whether it is an assistant, or whether it is a secretary, or whether it is a technician. The principal investigator writes out a memorandum normally, or frequently it will be a form that the university has for adding personnel to the payroll indicating that they should be added under such and such grant number, giving the information about them, how much time they will be working and what their salary should be, what their social security number is, how many dependents they would have, and so forth.

Q Dr. Fishman, are grants a valuable source of summer employment funding?

A Grants typically provide for the principal investigators summer income above and beyond the annual salary that the university pays.

Q The grants are pursued, are they not, year round?

A Many grants are pursued year round, and therefore the grants also provide a certain sum of money toward the faculty member's salary year round. Then they provide his summer salary in addition. And an additional summer salary.

Q Dr. Fishman, once a grant is granted and a research project begun, are there frequently requests for supplemental [317] funding?

A Yes, that happens commonly. The principal investigator asks for additional funds either because he has had a different related idea, or he hasn't been able to complete it as scheduled, he needs some more time, and therefore some more money.

Q Does that follow the same pattern as the original request?

A Roughly the same pattern, yes.

Q Now, how are the results of the research projects disseminated, if at all?

A Most granting agencies require a report in which the principal investigator writes out in some detail what it was that he tried to do, how it went, and what he found, what he concludes needs to be done.

Many granting agencies will provide funds in the grant for duplicating that report and some number of copies, 50 or 100, or 200 even, so that that preliminary report can be distributed by the principal investigator to whomever he likes so he can begin to get comments from colleagues in the field as to whether they agree or don't agree with his finding, as to whether they think he should change his conclusions or his interpretations, or add to his bibliography or so forth.

Finally—that is not really considered publication yet, so thereafter the principal investigator may submit parts, or [318] the entire report for publication to a publisher, to a journal.

Q You have told us that various people work on these grants, they include the principal investigator, do they not?

A Yes.

Q Members of the faculty, full-time?

A Yes, frequently.

Q And part-time faculty?

A Part-time faculty and non-faculty.

Q When you say non-faculty, what do you mean?

A As I mentioned, grants will frequently provide for research assistants. These may very well be students,

commonly it would be students or secretaries or lab or other technical assistants. Sometimes they provide for a full-time associate who is not on the university's tenurable lines, but he is a full-time research associate on that grant.

Q Now, all of these people that you just referred to, whether faculty or non-faculty, are employees of the university, are they not?

A Yes.

Q There is no question about that, is there?

A They are employees of the university in the sense that the university is paying them, they are on the university's payroll, they are working—their working conditions are governed by university patterns of employment, practices of [319] employment. They are university employees. Since the university pays social security for them and withholds their taxes for them.

Q Should one of these principal investigators simply abscond or not do any of the work for which the agency is paying, is the university responsible?

A The university would be fiscally responsible for funds misspent by the principal investigator.

The grant monitoring office has a copy of the contract, and when the principal investigator asks that funds be disbursed for such and such purpose an individual in the grant monitoring office refers to the contract to see whether the contract provides for such expenditures.

Q The grant is a contract between the granting agency and the university; is that correct?

A Yes.

Q And that grant contract is managed by the principal investigator; is that correct?

A Yes.

Q And his expenditures are monitored in the grant funding office?

A Yes.

Q Is it correct that the principal investigator selects the employees on the grant?

A Yes.

[320] Q Who assigns these employees to particular tasks?

A He does.

Q That would be so—

A Or someone he asks to do so does.

Q That would be so whether those employees are faculty or non-faculty; is that correct?

A Yes.

Q Who descides what the hours are to be scheduled for the work on the grant?

A Within university practice he does. The university is closed on certain days, the grant then is closed on those days.

Q Does the principal investigator have authority to reprimand employees on the grant?

A He has the responsibility to reprimand.

Q Does he adjust their complaints and grievances?

A Yes.

Q Has he the authority to effectively recommend their determination?

A Yes.

Q Subject of course to the tenure provisions of the university?

A As far as their work on the grant, tenure provisions don't apply. It applies only to their work on the university payroll.

Q I am talking now about full-time faculty.

[321] A Yes.

Q With respect to other than full-time faculty, does the principal investigator have the power to effectively recommend the termination of all employment at the university, total termination?

A Yes.

Q Does he have the power to authorize overtime for non-faculty employees?

A Yes.

Q Now, Dr. Fishman, in your experience, what percentage of time, time over the whole year, do principal investigators spend on research programs?

MR. SCHECTMAN: I will object to this question on the basis that it is a generality listed for 15, 20, maybe 30 names here who apparently have working with, or under them, anywhere from one to 20 or 25 people. Unless the question is more specific, I don't think it warrants any answer.

HEARING OFFICER: Repeat the question.

(Question read.)

MR. KRAMER: The witness testified, Mr. Banks, that he has experience in this area, he himself has grants, he was the dean of the Ferkauf School for several years. The question is not in someone else's experience, but in his experience what percentage of time do they spend.

MR. SCHECTMAN: He is asking what percentage of time [322] Dr. Fishman spent?

MR. KRAMER: No.

HEARING OFFICER: He is saying a principal investigator.

MR. KRAMER: In his experience, what percentage of time have principal investigators that he has been acquainted with over the years spent in working on their projects.

HEARING OFFICER: Overruled. You may answer.

A It varies. Typically all of the summertime, and throughout the rest of the year. There are a large number who are on half time research support. And there are a number on less than half time.

Q Now, again in your experience, Dr. Fishman, both as a dean and as a principal investigator, and as an observer of people who are acting as principal investigators, what percentage of time spent on research projects by principal investigators is spent supervising research assistants and other non-faculty personnel?

A It varies, it varies with the number of such staff on the project. It will therefore vary from project to project. It varies within the project for different stages of the project. Usually a lot more supervision is required initially, and sometimes a lot is required at the very end.

Q Now, Dr. Fishman, what causes these variables?

A The size of the project, the extent to which the principal investigator is the only one who can do certain [323] things, and therefore has none that could be supervised, or the extent to which there are others who could do these things and have to be taught how to do them, have to be shown how to do them, have to be watched while they are doing them.

Since many of the project staff are students it is quite common that the principal investigator invests a lot of time in supervising them.

Q Would the rate of turnover on a project affect that?

A Yes, if staff has left and new staff comes, they then again have to be taught the ropes. That requires additional supervisory time.

Q And would the complexity of the project, roadblocks and pitfalls that may be encountered affect the variables?

A If there are unanticipated problems, someone who was working along smoothly is found not to be working effectively, or has come up with a problem that he himself hasn't been trained to handle, then the principal investigator has to step in.

Q Just so the record is clear, Dr. Fishman, is it your testimony that on some occasions principal investigators may spend more than half their time on their research projects, and on other occasions less than half their time?

A Yes.

Q Is it your testimony that on certain occasions principal investigators, certain projects, not occasions, principal [324] investigators may spend more than half their time supervising and on other projects they may not?

A At times, yes.

Q Either times or projects?

A Yes.

Q Is it very difficult, to quanity this thing?

A Yes, it is difficult.

Q But nevertheless you are sure, I take it, Dr. Fishman, that these principal investigators do supervise the non-faculty employees on their grants?

A By supervision you mean the various things that you have asked me before, those are the things that they definitely do.

Q And they also, do they not, have a managerial responsibility to see that the grant operates within the funding limits established by them?

A They have to watch how the money is being spent to see whether they are coming to the end of the money faster than they had thought, and to speed people up if that is the only way of finishing it on time.

Q That money is being spent either on equipment or salaries of employees of the university; is that correct?

A Supplies, yes.

Q Is there any question in your mind that the people who work on these grants are university employees?

A They are all university employees.

[325] HEARING OFFICER: In the event that it is discovered that the funds originally allocated are not going to be sufficient to complete it, who will be responsible for trying to obtain additional funds?

THE WITNESS: The principal investigator normally is the one who discovers that, and he is the one who undertakes to convince the granting agency that it is worth their making an additional investment, an additional allocation so he can complete it. He will communicate with them usually informally about this to see whether there is some change that they will agree. If he gets any informal encouragement he will then normally apply to them so that they will do that.

HEARING OFFICER: Now, anything which developed from this investigation, who would get the benefit of it, would it be the organization that supplied the funds, the university, or both?

THE WITNESS: That is somewhat technical, I am not sure of the exact answer to that.

In most cases the product is a book or a publication, and therefore it is difficult to attribute its benefit to any particular person.

Now, in some cases it is a patentable something or another, and there is a university policy governing patents and the university's rights to the patents, as well as the investigator's rights to the patents.

[326] HEARING OFFICER: That is all I have.

Q Is there a standard faculty research government?

A Yes.

Q That is found in the faculty handbook, is it not?

A Yes.

Q Which is Exhibit 51 in evidence?

A Yes.

Q Dr. Fishman, you told us that you have had several research grants?

A Yes.

Q Did you have a research grant in 1966 through 1968?

A Yes.

Q Will you tell us about that grant, and how you went about managing it?

A That was a rather large grant requiring a rather sizable staff, and therefore having indicated the various positions that I would try to fill if the grant were forthcoming when it was forthcoming I proceeded to hire a full-time professor at another university who was on leave of absence that year from his university, and therefore came as visiting professor to us, thanks to the fact that I had received this grant, and was also teaching at the university that year.

I also hired a full-time research associate who left, completely left his job at another university and came to work with me on this grant.

In addition to which he taught part-time at the university.

[327] I hired several student assistants, I really can't now remember whether it was eight or ten or twelve, quite a number. Several assistants who were students but not at the university, but who had recently completed their doctoral studies at other universities, were looking for employment while they were completing their dissertations.

I hired several technical assistants to assist in data collection.

I hired secretaries and typists.

I think that about covers the kinds of assistants.

Q Who provided this grant, Dr. Fishman?

A It was an office of the federal government. I believe it was called at the time the International Studies section.

Q The grant was given to whom?

A The grant was awarded to Yeshiva University for the purposes outlined in my application.

Q And the employees you hired were employees of Yeshiva University?

A Yes.

Q They weren't employees of Joshua Fishman, were they?

A No, I didn't pay them out of my pocket.

Q The university paid them, did they not?

A Yes.

Q Covered them with workmen's compensation?

A Yes.

[328] Q Social security?

A Yes.

Q They worked under the overall university policies; is that correct?

A Yes.

Q Dr. Fishman, approximately how much was this grant for?

A As near as I remember now, it was $150,000, or perhaps a little more, for two years.

Q You are presently vice president for academic affairs for the university. Were you president for academic affairs in 1966 through 1968?

A No.

Q What position did you hold at that time?

A Research professor in social sciences, university research professor.

Q Tell us what this project was about in lay terms.

A It was a study of a community in Jersey City, most of whose inhabitants were bi-lingual, speaking both English and Spanish. It was an attempt to describe bi-

lingualism in a community by the approaches and based on the theories of different disciplines. So that it required that a sociologist and an anthropologist, and a linguist, worked together studying the same people with different instruments, from different points of view, in order to determine whether the picture that resulted of individual bi-lingualism would be [329] different when approached from different theoretical prospectuses.

Q Did you direct this project?

A Yes.

Q Did you tell the people on it what they were supposed to do?

A Yes.

Q Then see to it that they did it?

A Yes.

Q There wasn't anybody over you to see that this was done, was there?

A No.

Q It was your responsibility to manage the project?

A Yes. But I remember an occasion when I wanted to make an expenditure on that project and the grant office notified me that that expenditure they couldn't find any authorization for that in the grant contract. Therefore I had to write to the granting agency in Washington to get their official approval for that kind of authorization. Otherwise—for that kind of expenditure. Otherwise the university would have felt that that might have been questioned upon review later and the university would have to make up that expenditure itself.

Q Did you manage to get the money?

A Yes. I got the authorization to spend the money that way.

[330] Q Did anybody tell you how to go about doing it?

A No, they just told me that I had to get authorization.

Q How you went about doing it was your affair?

A Yes.

Q All the time that you were managing this grant, Dr. Fishman, you were an employee of the university?

A Yes.

Q A full-time member of the faculty?
A Yes.
Q With tenure?
A Yes.
Q In the 1972 spring term did you have a grant?
A Yes, that was from '69 to '72.
Q Was that grant different from the grant that you just described to us?
A It was a different grant, yes.
Q Under this grant, however, did you also have authority to hire personnel and direct them?
A Yes.
Q And were they personnel who were employees of the university?
A Yes.
Q Do you currently have a grant? By currently I mean during the '73-74 academic year.
A Yes.
[331/449] Q Do you have the same authority under that grant?
A Yes.
Q Have you applied for a grant next year?
A Yes.
Q And will you have the same authority under that grant?
A That grant has been granted and I have that same authority for the next grant. In fact, I am looking for personnel now.
Q Would this be so whether you were a professor teaching or academic vice president administering?
A The authority with respect to the grant doesn't derive from my administrative position, it derives from my being a principal investigator in a grant.
Q That is a scholarly position, is it not?
A It is a research position as a result of having received a research grant.
Q Carries with it supervisory and managerial functions, does it not?
A Yes.

* * * *

[452] CROSS EXAMINATION

Q (By Mr. Schectman) Good morning, Doctor.
A Good morning.
Q I would like to begin cross examination with reference to the faculty handbook, which was Employer's Exhibit Number 51.
Who conceived the policies in the faculty handbook?
A Many of them go back quite a while. I would say all the university policies are a by-product of faculty and administration. They start at various places.
[453] Q Who has—
A The faculty committees sometimes, sometimes the administration committees, sometimes individuals have an idea that takes hold.
Q Is it not true, then, that committees at individual schools of the university can and will have some input in the formulation of the policy in the faculty handbook?
A Yes.
Q Who has the power to amend its positions, formula?
A The same procedure that results in the provisions themselves can result in the amendment of the provisions.
Again a committee or an individual provides the impetus to start discussing something which finally works its way up through schools, through executive council to the president.
Q And finally who will promulgate policy in the faculty handbook?
A The policy is always approved by the board and by the president and then promulgated.
Q I'm sorry, approved by whom?
The board and the president, you said?
A Yes.
Q Are there any other documents of the university [454] whose authority prevails over the faculty handbook when the policies are inconsistent?
A Did you say if policies are inconsistent?
Q Let me rephrase it.
Are there any other university documents whose authority would prevail over the faculty handbook relative to the policies contained therein?

A I don't think so. There are—possibly like the memo that I was discussing yesterday, there is a procedural memoranda as to how to go about doing the things in the faculty handbook.

But I don't believe there is any policy statements beyond the faculty handbook that takes precedence over the faculty handbook. It is for university policy.

* * * *

[502/514] Q Dr. Fishman, in your position and also with respect to your appearance as a former dean of a graduate school at Yeshiva University, do you have some knowledge as to the budgetary matters of the various schools of Yeshiva University?

A When I was dean, I had very detailed budgetary knowledge. But in my current work, I have very little budgetary responsibility or concern.

Q Will you, however, occasionally see the budget of one of the schools of the university?

A Yes, I will, or parts of it.

Q Pardon me?

Parts of it?

A Parts of it.

Q Particularly what parts of it might you see?

A No particular part, but on occasion some part will be mentioned at a meeting.

[515] Q Would part of it be the specific budgetary allotments for each school for faculty compensation?

A I will sometimes hear that a new faculty appointment can't be made because the budget for faculty has been allocated.

Q And that's allocated on a school by school basis?

A Not usually.

Q What do you mean, "not usually"?

A Because faculty members are so frequently teaching in various schools, and there are budgetary consequences of that.

Q Could you describe those consequences, and out of that example, you can tell me if it's a reasonable one?

Let's assume there is a professor with a home base appointment at the Belfer Graduate School who teaches

three courses or its equivalent at Belfer and teaches one course at Yeshiva College.

How would the budgetary configurations be based for that professor?

A That I don't know. There would be some budgetary allocation accordingly. Exactly what that is, I don't know.

Q Do you know who formulates all the budgets?

A I know how budgets get formulated.

Q Could you tell us?

[516] A There is always a prior budget. Let's start with, there is always a prior budget, so we don't have to start with a creation of the world.

Sometime in the fall the machinery for starting the new budget—I'm going back to my own experience by and large, because this year I haven't really gone through that round myself.

Q Please.

A The dean will be in touch with the budget officer of the university to determine the parameters for university support for the coming year.

He will therefore have to attend meetings with the fiscal officers and with other deans in order to get that worked out.

Q Is there—

MR. KRAMER: The witness hasn't completed his answer.

MR. SCHECTMAN: I'm sorry. Excuse me.

A (Continuing) This frequently also involves meeting with the budget committee other than—that is, the university budget committee.

Frequently the deans in concert feel that the additional funds are needed. Then the deans also, given the amount of money which is available, try to find ways of making appointments so that they can benefit from them, drawing strength to various schools rather than to any one.

[517] Q You mean by deans making appointments, deans, of course, recommending appointment to the president?

A Yes. First the deans have to have the appointments recommended to them. In other words, what the deans would like to come away from all these meetings

with is the news to faculty that there is going to be money for appointing someone in this area or in that area.

Q So, then, does it not require some consultation between the dean and members of his faculty?

A Yes.

Q In particularly what areas?

A In the programmatic areas that I represented, in the subject matter areas, in the degree program areas. I'm not sure I follow your question.

Q Generally, when you were at Ferkauf, and you finalized—would there be something called a budget proposal?

A After a long time, there would ultimately be something called a budget proposal.

Q What fiscal areas would be encompassed within that budget proposal?

A In a school such as Ferkauf, the huge proportion of the budget would be salaries, personnel salaries. That would include buildings and grounds people and the secretarial people, and so forth, and faculty.

Another huge proportion would be student aid that [518] would be charged to the school.

Now, any one of those lines would interlock with similar lines in other schools.

Q What other areas would be encompassed by the budget? You referred to generally two.

A There would be equipment. That would be a minor —that would mostly be the equipment that was budgeted under grants rather than central university equipment.

I don't know whether that's still the practice now. Equipment such as elevators, and so forth, were not on the school's own budget lines.

Supplies, there would be a supplies line.

Q Would there be a budgetary allotment for the library of an individual school, if that school had a library?

A As I remember at that time, the library was budgeted centrally, and there was no library line.

Q Do you know if that's the practice now?

A Well, my impression is that that is still the practice now, because I sit on the university library committee, and the library—the budgets of all the libraries are discussed and battled out and revised, and so forth, in that committee before the university librarian then goes to the fiscal officers.

Q Does that committee then consider your particular budgetary allotments for each of the libraries within [519] the school?

A It does that, but on the same basis as university faculty lines are concerned, it is librarians that are shifted from library to library and work at several libraries.

• • • •

[595] Q Dr. Fishman, the faculty handbook, page 8 designated four academic ranks, structure, assistant professor, associate professor and professor.

Are there written requirements for the promotion of the faculty members of Yeshiva University?

A There are, yes.

Q And with particular regard to which ranks?

A With regard to all ranks.

Q Is it within the power of each school of the university to establish guidelines for the normal expectancy with regard to length of service in particular academic ranks?

[596] A Yes.

Q And is it not true that at numerous schools of the university there are standing committees particularly addressed to the question of promotions?

A Yes, sir.

Q Is it not true that they deal with solely the issues of promotion of those faculty who work primarily or are based in the school at which the committee serves?

A Yes, sir.

Q Do you have knowledge whether any such committees are established by the constitution or by-laws of any of the individual schools?

A I don't have direct knowledge, but I assume that this would be covered, could well be covered by the by-laws of the particular faculty groups.

Q Now, on direct testimony you testified as to the definition of full time and you indicated that it was a certain number of course hours or its equivalency.

You also indicated on direct testimony that the definition of equivalency was distinct in the graduate schools and the undergraduate schools.

Could you amplify that?

MR. KRAMER: I must tell you that you are misstating—

Q Or if I am misstating the testimony, please indicate it and clarify the point.

[597] A There are a number of possible equivalent factors, that could be equivalent to number of hours that professor teaches, his research, his committee work, his dissertation guidance, his administrative responsibilities.

Q Will the equivalency factors be generally defined and applied on a school by school basis?

A Well, these factors that I mentioned, they are pretty much over all. They are the ones that are applied over all.

Q Would it be, however, the responsibility of a dean of an individual school to decide whether a faculty member in his school has met the full time requirement of course hours plus a certain equivalency?

A It wouldn't be his responsibility to determine what the equivalents should be. But that having been determined, he ought to check it out to be sure that faculty members that are full time are doing a full time load.

Q Who then makes the initial decision whether a faculty member has a full time load? Is it not the dean of the individual school?

A Yes. But he must have a policy for guidance so he knows whether he should decide this way or that way.

Q But the dean of the individual school then applies that policy to the individual cases?

[598] A Yes.

Q And accordingly, defines whether a faculty member is serving full time, according to the given policy?

A In essence, he indicates that he is, because if he isn't, the university requires that he be assigned to additional duties.

* * * *

[604] MR. SHECHTMAN: Let me now rephrase the question more precisely with reference to the prior testimony on page 517 of the transcript in this proceeding.

Q You testified, Dr. Fishman, that deans have the appointments recommended to them. Generally, how are those appointments recommended to them?

MR. KRAMER: I don't think that testimony is what is reflected in the record.

MR. SHECHTMAN: I will read the question and the answer.

MR. KRAMER: I withdraw my comment.

A The deans are in the pivotal position in connection with hiring. The programs with which they are in touch express needs for new faculty to them. The university administration lets them know about the budgetary possibilities. The deans therefore, together with each other and with the people in the programs try to translate those possibilities into what should be done.

Some of it could be used for full time faculty or for part time faculty or for other acquisitions.

At any rate, this kind of discussion goes back and forth and normally, depending on the size of a school, some schools are really so small that you would consider [605] them departments, and, therefore, the dean is in touch with the whole faculty and, therefore, he doesn't need anyone else to recommend this to him. But in a larger school it would be the chairman who mostly works with the dean and, therefore, the program faculty of that department or the various departments involved in the program that are communicating with their chairman, he communicates with the dean.

The dean is in touch with other deans.

In other words, it's a pooling of information which is fed to the dean and which is then fed to me and to Dr. Sokol and so forth, to the president.

Q So that when a dean is in the position, that pivotal position to make a recommendation of an appointment, is it not true—

A Not so much that he is pivotal for recommending. He is in the center of information that comes from various other sides, from the faculty and from other administration.

MR. SHECHTMAN: May I have this marked for identification Petitioners' Exhibit 3.

(Whereupon the document referred to was marked Petitioners' Exhibit No. 3 for identification.)

Q Dr. Fishman, on direct examination you testified that a new tenure policy was promulgated and distributed separately from the handbook as a whole.

[606] A A revision of the tenure policy was approved.

Q Yes. Are you familiar with this memorandum addressed to Academic Deans and Directors from Samuel Belkin, with—in handwriting, a notation "Approved, S. Belkin"?

A Yes.

Q I'm sorry?

A Yes.

Q Did this memorandum—was this a covering memorandum over the revised tenure statement as it was distributed?

A Yes.

MR. SHECHTMAN: I would like to have this marked in evidence as Petitioners' Exhibit 3.

MR. KRAMER: No objection.

HEARING OFFICER: Petitioners' Exhibit 3 is received in evidence.

(Petitioners' Exhibit No. 3 for identification was received in evidence.)

Q This memorandum voices president Belkin's pleasure that faculty welfare committees were involved in the development of this tenure statement.

Do you know what that means?

A Yes.

Q Could you tell us?

[607] A I wasn't there at the time. But I heard about it during this year that I have been at the university.

Several years ago the process of reviewing this tenure policy began. The review, as I understand it, was initiated at the recommendation of the executive council. And all of the welfare committees of the various schools were asked to participate by providing comments and suggestions for the revision of the current tenure policy, and also the executive council, or some subcommittee of it, also proposed recommendations for revising the then current tenure policy.

So that the various welfare committees reacted to the ones that were being suggested to them and made their own suggestions. The process then just continued in terms of continued discussions, until the executive council, having met with all the welfare committees or some representative of the executive council, having met with all the welfare committees or gotten all of their views, proposed a revision, which included many of the recommendations coming from different faculty welfare committees. The college, I know particularly, and Belfer and Wurzweiler had some feed in, and Ferkauf.

Q Are welfare committees standing committees at virtually each of the schools of the university?

A I can name the ones that I know of. Shall I do that?

[608] I know there is a welfare committee at Ferkauf. I know there is a welfare committee at Belfer and a welfare committee at Wurzweiler and a welfare committee at Stern and a welfare committee at the college. Those are the ones that I know of.

* * * *

[723] Q (By Mr. Schectman) I show you Petitioner's Exhibit 6, marked for identification. Are you familiar with these documents, Dr. Fishman?

A My real familiarity goes back to parts of this that I recognize from the time that I was dean. But I haven't seen it since.

MR. SCHECTMAN: We offer now into evidence Petitioner's Exhibit 6, including the handwritten notations on page five, Appendix A thereto.

MR. KRAMER: We would not quarrel with the first of those notations being offered in evidence. But the second which indicates a change, which nobody has, we would object to that notation going in unless the change is produced. Just a notation going in—

MR. SCHECTMAN: We will then except the notation from the admission.

MR. KRAMER: We have no objection to the document.

HEARING OFFICER: Petitioner's Exhibit 6 is received in evidence.

(The document previously marked P-6 was received in evidence.)

* * *

[730] Q Do you have any knowledge whether Belfer —the Belfer Graduate School has a constitution and bylaws?

A It's required to have so by the university faculty handbook. So I'm sure it does.

Q And that would be the same for Wurzweiler Graduate School?

A Yes.

Q And that would be the same for the Bernard Revel Graduate School?

A Yes., it's a university-wide policy that schools draw up in writing—

Q And that would be the same for the Erna Michael School?

A It might.

[731] Q And the James Striar School?

A It might have, yes.

Q And did I say Stern College?

A You didn't. But it should have.

Q And Teacher's Institute for Women?

A It should have.

Q I noted Yeshiva College has a committee on committees.

What is the function of that committee, do you know?

A Is that a college committee that you are referring to?

Q Yes, I am, the college committee.

Is there a university committee on committees?

A I think there is a university committe on committees. There may be a Yeshiva College committee on committees.

Q I see in these constitution and bylaws that have already been introduced in evidence that there is not only a listing of numerous standing committees in each school but there is also some reference to ad hoc committees.

Q Generally in what instances would an ad hoc committee be created and to act on what issues?

A An ad hoc committee would be one to which there is assigned a task that is limited and it will be over and done with within a short time. And therefore the committee is assigned that specific task, that specific problem. That's ad hoc.

Now, standing committee has an area assigned to it, a [732] program or a continuing concern assigned to it, and it continues to be in existence forever as long as that concern continues, merely to be available.

It will have busy seasons and it will have slack seasons. It will be busy when that concern is being stressed for whatever reason and then it will just be available. It might meet informally, and just knowing that it is available in case something comes up in that connection.

Q Cannot a standing committee create an ad hoc subcommittee?

A It could happen, sure.

Q Is it a fair inference that in the last academic year there were numerous ad hoc committees in effect or operative at most of the schools of the university?

A Yes, I would say that's a good assumption, although it's only the standing committees that have to be there.

Q I understand that. Than that would be the same on the university-wide basis as well, would it not, that

only the standing committees have to be there by either its charter or handbook?

A Yes. Well, the—

Q You answered the question.

MR. KRAMER: No, he didn't.

MR. SCHECTMAN: He answered the question yes.

THE WITNESS: Yes, but.

Q All right.

[733] A The handbook only calls for—the university faculty handbook calls for certain university commitments. It doesn't list all of the university committees that are standing committees.

Q You have a good deal of contact with the various deans in the various schools of the university, do you not?

A Yes, I do.

Q Could you summarize briefly the roles and responsibilities of the dean at one of the schools of Yeshiva University?

A Just that one particular school generally.

Q Let's say typical roles and responsibility of a dean.

A The dean is the chief liaison officer between the programatic activities of the school and other schools and the central university administration. It would be concerned with the academic programs and their needs in terms of faculty staffing, student aid. Those are I'd say his major concerns because all that information funnels from school to school and from school to administration centrally through him.

Q He also has some concern with the school's budget you testified before?

A Yes. Budgetarilly—

Q You need not—I think you testified before. I just wanted to—

A I said budgetarilly he doesn't have the same significant role as he would programatically.

[734] Q Now—

MR. KRAMER: Is the witness finished with his answer?

THE WITNESS: There are other things. He convenes the faculty meetings usually. He reports on the

school to the executive council whenever—he is usually also present or a member of the graduate council and undergraduate council, takes up school concerns that have a university-wide implication on those occasions. I could go on. There are other areas.

Q When a particular grievance arises from a faculty member over, let us say, his or her course scheduling or desire to take a two or three day leave or some other kind of routine matter affecting the employment, terms of employment of that individual, is it not generally the dean who attempts to resolve those?

A I wouldn't say that was generally the case, particularly in larger schools. Either the department chairman would be the person the faculty member would normally direct matters of that kind to.

Q But always subject to the approval or veto of the dean?

A That's normally the case. It may be that if there is an established pattern or practice for handling that kind of matter, then the chairman himself can arrange it with the faculty member.

Q But usually such established patterns of practice would be [735] approved by the dean or other university official?

A If it's changing the time that a class meets because he can't meet that week with his class because he is going to a conference, let's say, somewhere. I'm not sure that the dean needs to be concerned. I think probably the chairman, if it's a program in which there is a chairman, would try to clear that, assuming the faculty member cleared with his students and the students can all come, would clear that with the registrar's office to be sure that it was on record and to be sure there was a room available at that time, and so forth. They are matters which are so routine that they don't go to the dean. And then there are matters that are of greater concern that do.

Q If there is an issue on the point as to salary, would it be inappropriate for a faculty member to approach the chairman of the welfare committee or the welfare committee to inquire as to such a matter?

A We have a strange mode of life at our university where faculty members will promote the president directly when they are unhappy about their salary, or the vice-presidents. But I would say since the welfare committee is a standing committee that is concerned with school-wide, sometimes school-wide provisions for faculty welfare, that doesn't strike me as a good committee for a faculty member to go to if he has a salary grievance, although he might.

[736] Q Now, you testified that there is a committee entitled the university faculty review committee?

A Yes.

Q And they handle some grievances, and I believe over the last two academic years, you stated that there were three such grievances?

A I think there were—

MR. KRAMER: I think you misstated the record.

Q Excuse me. You said there were three faculty members who raised issues with that committee? Am I correct?

A I remember there were four over the last few years.

Q And what were the particular issues affecting those faculty members?

A If I remember correctly, the grievance committee—

Q Not the grievance committee. I'm referring to the university faculty review committee.

A Yes, that is the university grievance committee. The university review committee is the university review committee for faculty grievances. And it specifically is exempted from considering salary items.

So that to the best of my knowledge, all of its concerns have had to do with lack of promotion, not being recommended for promotion, not receiving promotion, or questions of tenure.

Q So then is it accurate to state that it's domain refers or is generally related to grievances relating to promotion [737] or tenure?

A Well, I think specifically it cannot handle fiscal grievances. It can handle any other grievances but traditionally handles tenure grievances and promotion grievances.

Q Do you have any personal knowledge of a prior occasion on which it has handled a grievance other than a promotional or tenure one?

A No, I don't.

* * * *

[751] Q (By Mr. Schectman) Dr. Fishman, when you were dean at the Ferkauf School, did you not undertake and enter into discussions with members and representatives of the faculty about the terms of their employment and their working conditions and possible improvements thereon?

[752] A I did.

Q And did you subsequently make—ever submit recommendations as to increases in salary, and other modifications of the terms of employment of faculty that served under you?

A I did.

Q I can't hear you.

A I made various recommendations in the welfare area.

Q Those recommendations were in part derived from discussions and/or meetings with representatives from the welfare committee?

A That I wouldn't say. That probably happened from time to time. But normally those discussions had nothing to do with individual faculty members.

Q Did you have such discussions with faculty members at any other part of the university while you were dean at Ferkauf?

A Yes.

Q And did you ever make any recommendations as to salary improvements or other improvements in working conditions of faculty members from other parts of the university who were not teaching at Ferkauf?

A Yes. We would frequently have to do that.

Q While you were dean at Ferkauf?

A Yes.

Q In what respect?

A All those recommendations at that time were handled by all [753] the deans collectively, just as the welfare committee for the university and executive council for the university had not yet come into being. And faculty welfare revisions that funneled up through the schools were then brought together from all the deans.

Q At those meetings you represented, did you not, particularly the interests of the faculty over whom you were dean, as well as your responsibilities to the university?

A I was the only one who could represent Ferkauf. But the unique character of those meetings was that all of the schools would be discussed there.

Q Do you know Dean Gelbart? Former Dean Gelbert of the Ferkauf Graduate School?

A Of the Belfer.

Q Belfer.

Dr. Fishman, after those meetings with faculty members of Ferkauf or representatives from the welfare committee, and then after apparent meetings with the deans from other schools, were the salary rates that may have been adjusted at Ferkauf adjusted to the same degree or to the same extent as those at every other part of the university?

MR. KRAMER: Mr. Hearing Officer, the witness testified that he was last dean of Ferkauf in 1966 and I stated for the record that we will have a vice-president of business affairs at the stand who is conversant with financial things that are [754] more recent and I would think more material.

I would object to the question about salary increases back in 1966.

MR. SCHECTMAN: History is an element here and we will show that in fact the history we are referring to is based—is indeed a long history and a continuing history.

HEARING OFFICER: The question has been raised as to whether this witness is the one who would have the information.

MR. SCHECTMAN: I'm asking when he was dean in 1966, and then I will bring out from other witnesses

what the conditions have been or how they have changed from 1966.

MR. KRAMER: Would you ask the reporter to read the question back, please, Mr. Hearing Officer.

HEARING OFFICER: All right.

(Question read by Mr. Vorsteg.)

MR. KRAMER: I'm going to withdraw my objection to the extent that the witness may know the answer to that.

HEARING OFFICER: All right.

A At that time the kinds of discussion that I remember were not with the committee of deans, co-professor so and so get an increase, but could faculty increases be approved for next year. The whole tenor of all those discussions certainly was that people of what could be judged to be similar competence and experience should be getting salaries that reflected that, regardless of where they were.

[755] MR. KRAMER: The witness is not finished, I don't think. Have you finished?

THE WITNESS: I don't know whether I'm addressing myself to the question.

There were no discussions of discrepancies between schools because it wasn't assumed that discrepancies were on that basis, but on the basis of whatever competences would be involved. In other words, that would get back to the individual and to the faculties and to the dean's judgments of an individual, as to what his salary would be.

The discussions there were about how to actually establish university procedures for obtaining faculty increases, should they be periodic? Should they be annual? Should they be based on competence or just on longevity?

* * * *

[757] Q (By Mr. Schectman) I refer back to your testimony regard the meetings you had with other deans, Dr. Fishman. You suggested or it was my understanding that it was suggested you dealt with certain overall issue.

Did you deal with or discuss per se individual salary adjustments that were made for the faculty at Ferkauf?

A At the general dean's meetings?

Q Yes.

A No.

Q Did you not have a certain designated pool of funds from which you were authorized to make certain merit adjustments?

A At that time I would get an approved sum to work within for all the schools needs, and then it would be allocated in discussion with the chairmen.

Q So it would be allocated then through the discussions you had with the chairmen of departments and other individuals?

A Yes.

Q And ultimately the final discretion being yours, of course subject to approval of higher university officials?

A Right, within the policy of decisions that the council of [758] deans had laid down.

* * * *

[791] Q Now, Dr. Fishman, with respect to principal investigators and the grants under which they operate, who is the named grantee generally for the grants on which principal investigators take part?

[792] A You mean to whom the money is given?

Q Yes.

A Well, it's normally given to the university.

Q And who is the named grantee generally?

A I ask you, does that mean to whom the money is named to be given?

Q Are you familiar with National Science Foundation grants?

A I've never had one myself. I must say so. But I get notices of grants that have been awarded. I get copies of the face sheet of them so I know the grant has been awarded. And normally it will name the university, principal investigator, the fiscal agent of the university who has signed for the application, and there is some variation in that connection. Which of those is the grantee I'm not sure.

Q Now, when an expense or bill is incurred in the course of a grant, who issues—

* * * *

[793] MR. SCHECTMAN: Let me make it more precise for the record.

Q (By Mr. Schectman) I mean now that when funds are granted and a check is drawn for the funds of a grant, in whose name will that check be drawn?

A Well, I've never seen any of those checks. I assume that no foundation or government agency is going to make out a check to a professor at the university. So they will probably make it [794] out either to the fiscal officer or to the university, because that's how the funds are going to be monitored.

MR. KRAMER: We would be prepared to stipulate with you that the funds in all normal circumstances—there may be some we don't know about—go from the granting agency to the university. How the check is drawn I don't know.

Q (By Mr. Schectman) Now, with respect to expenses and bills incurred in the course of a grant, who issues the money orders with checks for their payment?

A Who writes the check?

Q Yes, is it a university official other than the P.I. P.I. I am referring to the personal investigator.

A I would say with rare exception, it can be the P.I. I've heard of that being done. In fact, I know of that being done. But it would normally be the university fiscal officer, as those checks all are printed. They are all made ready in some central university office and they all get signed by university people.

Q When other persons are employed to work on a grant, is it not customary for the principal investigator to submit a requisition to his respective dean to place that person on the payroll?

A Yes, I think I testified that that's what I did, what is done, except I suspect on rare occasions where the principal investigator will send it directly to the fiscal officer himself. [795] I know some such instances when that has been done.

Q Is it not true that any persons employed on a grant other than faculty members are bound by university personnel, regulations and practices?

A Yes, that's generally so. There are outer limits within which they are bound.

Q Now, are there not some secretaries who take part, or whose pay is derived to some extent from grant funds?

A Yes.

Q And do they work and are there some secretaries that are represented by unions and whose wages are set by collective bargaining at universities?

A Yes.

Q Do principal investigators play any substantial role in that collective bargaining process?

A In which process?

Q In the collective bargaining for the salary and working conditions for those secretaries?

A Well, going by the negotiations that are currently on going for 1199, and what I've been told about past negotiations, there have been both faculty and student administration representatives in those negotiations.

Q Who is ultimately responsible for approving any kind of collective bargaining settlement?

A Ultimately the president and the Board of Trustees.

[796] Q And who will generally submit a recommendation to the president and/or the board of trustees?

A Well—

Q Would it be Mr. Sokol?

A I think he would. The university attorney would. There is also a labor council in the university. But there would initially be I suspect a recommendation to them from the committee that is involved.

Q Now, with respect to other persons who are employed in part or in whole in some aspect of a grant, do you have any knowledge of whether deductions are made from their compensations for a pension fund?

A I don't know whether they qualify for participation in the pension fund.

Q Are deductions made, however, for the pension fund?

A I don't know whether they qualify for participation in the pension fund.

Q Are deductions made, however, for the pension fund?

A Well, if they don't qualify for the pension fund, then there would be no deductions made for it.

Q Are you saying that with certainty?

A I don't know. I don't think that—well, I would say if they don't qualify for participation, I don't understand why deductions would be made for this purpose.

* * * *

[797] Q (By Mr. Schectman) With respect to Employer's Exhibit 62, [798] you submitted a listing of past, present or possible future principal investigators. It's a relatively extensive list, it appears.

Do you have personal knowledge of what per cent of the time these principal investigators in fact spend in that role on a case by case basis?

A No, I wouldn't know them case by case. It was mostly from my own experience, a few individuals I do know—

Q I would be interested only case by case—

A I would know some of these on a case by case basis.

Q About how many of them on a case by case basis?

A At the Ferkauf School I know—I have a definite impression I would say about most of them.

Q Can you tell me how many of them at Ferkauf College would spend more than 50 per cent of their time in that role?

A I think from time to time they might all have to.

Q No, I mean over let us say one academic year.

A Again, depending on what stage they were in, and that might be the academic year in which they were doing it. It's very hard to estimate this. I think I said that it was very hard to come to an average on things that vary so much.

Q You do make such estimates, however, or does not the dean of Ferkauf make such estimates in his definition of who is a full time faculty member?

A His estimates are normally the same as the official [799] designation in the grant application. Grant investigators just constantly discuss with each other and indicate how they have to be spending more time on it than the university is really getting money for it.

Q Is it not true that in a great majority of cases a significant, if not, let us say, their greater part of principal investigator's time—I mean again over the term of the grant let us say—would be spent in its research, analysis and writing?

A If it's that kind of grant, then in the research time involves the supervision of his research assistants or his research staff.

Q That's not what I'm asking. I'm asking in terms of actual research, in terms of the time the principal investigator spends himself, I mean with respect even to your grant. Is not the greater part of your time spent personally doing research, analysis and writing?

A Well, let's go back to the big grant that I was discussing before, roughly '66 to '68 that went on. My question is, how do you break out the time that I spend with research associates and the research assistants, deciding how to do, what to do, when to do. It makes me feel better to say that that's research. But actually it's the process of organizing people to get things done.

Q But I'm exactly asking you that, Dr. Fishman, to break out [800] the time. And I mean for you to tell me approximately of all the time you spend on a grant?

A Well, on that grant it was a huge amount of time. There was a huge staff and meeting with them to assign them to do this and that took a huge amount of time.

Q Was it more than half of the time?

A Yes, it was absolutely more than half of the time. In other words, the time I could sit alone and write something up, without having to supervise somebody doing something was actually too little of the time.

* * * *

[801] Q (By Mr. Schectman) Were there not occasions on which you sat with other people involved in the

project and discussed some of the intellectual issues involved or some of the practical problems involved?

A There was a stage when that goes on. Actually, I had that formulated myself pretty much before we began.

Q Do you know Professor Goldstein at Ferkauf College?

A Yes.

* * * *

[803] Q Now, when you had your grant, were you also teaching at the time?

A I was teaching at least a course each year. But it could have been a course each semester in one of those years.

Q Is it not generally true in terms of the equivalency factor your course would be deemed one-quarter of your work load and your work with the grant three-quarters?

[804] A There are other factors that count, dissertation supervision, committee work, especially administrative work.

Q That would come out of that three-quarters, would it not?

A That would come out of the total—out of which three-quarters?

Q In other words, I suggested that one-quarter of the definition of your work load would be designated toward your contact hours, your class room hours and the other three-quarters would be designated toward your grant and other activities, is that not true?

A If I was teaching one course, that's a quarter and therefore there are three-quarters left. So therefore everything else has to come out of those three-quarters, yes.

Q Is that correct?

A Yes.

* * * *

[805] Q (By Mr. Schectman) Is it not true, not withstanding what the application itself reads, that the university or the deans with respect to the schools make some determination with respect to the amount or time attributable to work on the grant for the definition of full time faculty?

A They normally have to take the definition of the grant.

Q So you in fact could find out what per cent of a faculty member's time was spent in the grant doing supposedly supervisory duties and other work by looking at the grant?

A That's not what I said. What I said was there was a certain specification in the grant as to how much of the full time of a professor should be on the grant. But in addition—in other words, it doesn't specify how much of his time should be in supervising. But in addition to that, professors work on their grants, have grant responsibilities that sometimes go beyond the amount of compensation that the university is getting for their grant work. And they complain about that. I know I did.

Q So then such a complaint would be directed toward the definition of full time status as it affected or work load you might have at the university, would it not?

[806] A Grant generate a lot more work than they recognize officially. And investigators are responsible for all of that even though they are not being credited for all of that in terms of adjustments in their work load.

Q Is it not true that part of a grant, with particular respect to teaching assistance and research fellows who may be associated with it, includes a didactic component?

A There are some grants which are not research grants but training grants.

Are you referring to them?

Q Well, to those and all type of grants. You may make a distinction if you like.

A Well, there are some grants that hey no—if it is a research grant, to my mind the research grants don't specifically have a didactic component, although students serving as assistants are learning something. But they are not getting usually credit for that academic—academic credit for that.

Q Now, a training grant, does it not have a serious didactic component?

A I wanted to say, training grants do.

Q At Belfer College, for instance, are not some of the students taking part or employed in a grant for the

purpose of completing a dissertation in their doctoral program?

A I'm sure if they can do that they would be delighted, and that some do complete a doctoral dissertation as a result of [807] having been an assistant on a grant. You know, the investigator's purpose and their purpose formally is to pursue the grant.

You know, some research will not work into any dissertations at all.

Q But some will, will they not?

A Some will. Some will years later.

Q Do any assistants ever receive an authorship on any of the grants?

* * * *

Q (By Mr. Schectman) You've published a book, have you not?

A Yes, at least one.

Q Were any of these books published as part of or as a product of a grant?

A I have at least two books which are the result of work that [808] began under a grant.

Q But the books were completed subsequent to the grant period?

A Yes, but much thereafter.

Q Was the book itself one of the purposes or stated purposes of the grant?

A In my own grants I had to indicate to the sponsoring agency what they would get upon my completion during the period that they were funding it. And in each case what I indicated was a final report. They would get a final report, how far had I gotten. And they provided funds so that that could also be typed up, because that was a special budget line, the typing up of that final report, as well as preparing a few hundred copies, like 200 copies of it, so that it could be sent to various people in the field whose comments I could then receive. So that subsequently, after the grant was over, this could be written up as a publication rather than as a report.

Q Did you prepare such a report in your last grant?

A Yes, those two I'm referring to, yes.

Q Approximately how long in pages were those reports?

A One of them I would say was—one of them must have been a thousand pages.

Q Did you write most of those pages?

A No. Actually I supervised the writing of most of those [809/850] pages by reading them in draft and discussing with the person how to change it. But they are all multiply authored. I heavily followed the procedure of having the assistants get credit, do writing and get credit for writing.

Q What is the distinction between that supervision and the supervision you might lend to someone in the preparation of his or her dissertation?

A It's a different—it's quite similar in some respects but it is a different aura about it.

Under the grant, that's my responsibility, and they rewrite it the way I say, ultimately, to get down to the clinch.

In dissertation there are other colleagues who are also on the committee and they may have different views, and the student has to juggle the various views. And therefore, I feel if another faculty member on a committee has a different view, in order not to put the student in a terrible bind, I work out a compromise with that other faculty member, so as not to hold him up on the dissertation.

In a chapter for a grant report, I don't have to compromise that way. I tell them, this is the way I want it done, this is the way I think it should be done.

* * * *

[854] Q Is it not then also true that on other grants, other grants likely to be smaller than the grant you testified to, that in those other cases a principle investigator might have spent more of this time proportionately than you did doing research?

A If there is no one else than himself, then of course that's so.

But you can have a grant with just one assistant and if you are working with him all the time, then you have a lot of time that you are supervising him.

Q Now, you testified that there were faculty from other universities working with you on your grant, is that not true?

A One faculty member from another university. Assistants came from other university, too.

Q You did get assistants from other universities?

A Came to me from other universities.

Q Was that assistance paid for?

A When they came to work on the grant, they were paid by Yeshiva University, but they had come from outside of Yeshiva University is what I meant to say.

Q Were they consultants with you?

A Different consultants on the grant?

Q Yes.

[855] A I also had friends for consultants.

Q And those consultants played what role?

A Once or twice a year I would go to see them or I would invite them to come look over everything that we were doing or some particular problem that they were competent at.

Sometimes I sent the staff up there to wherever they were, but more commonly they would come and spend a day or more listening to whatever the problem was and expressing an opinion.

MR. SCHECTMAN: No further questions of this witness.

Q (By Mr. Kramer) Dr. Fishman, you have told us that you had faculty from other universities on your research grant. What do you mean by that?

A Before they came to work on the grant, they would be working at some other university.

Now, one of these people was on leave of absence or on Sabbatical, I believe, from that other university and he came to work with me on the grant.

Q When he came to work—let's stay with him for a moment—when he came to work with you on the grant, did he spend all of this time working on that grant?

A In his case, he worked full-time on the grant and also taught at the school part-time as an additional [856] source of income.

Q And for his work on the grant, did he receive payment from the university?

A Yes.

Q In the form of salary?

A Yes.

Q Did you select this employee?

A Oh, yes.

Q Did you direct his work?

A I did.

Q If he wanted time was it within your authority to give it to him?

A It was. I would have to consider whether we could get the work done or not if he took his time off.

Q But he would come to you for those kind of requests, would he not?

A Yes.

Q You told us with about one of these people from outside the university who came to work for the university. Was there another one?

A There was another man who actually left his job at another university in order to come to work on this grant with me.

Q And did he work full-time on the grant?

A He did, and he also taught at the university [857] again part-time.

Q And for work on the grant, was he paid by the university?

A That was his full-time work and he was paid by the university.

Q A salary?

A Yes.

Q Who had authority to direct the work of this person?

A Just I.

Q Was there anyone else?

A Not as far as his full-time work was concerned.

Q You selected him, Dr. Fishman?

A Yes.

Q Did you do the interviewing?

A Yes.

* * * *

Q You have told us that the faculty and students have representatives on the university negotiating committee in its negotiations with Local 1199.

Do those representatives include both graduate and under-graduate faculty?

A That was the case last time. I'm not as sure about it this time. I know I've been told about it last time. I haven't inquired this time.

[858] Q Dr. Socol is involved in those negotiations?

A Yes, and I know that they are—I know this that would be the desirable—during the summer university whether he is able to get the people in that would like to participate in this, but that would be the way it would normally be done.

* * * *

Q You told us on cross that persons employed on grants other than faculty are bound by the university's regulations and personnel practices.

That was your testimony almost verbatim.

Who enforces those personnel practices and regulations in the first instance, if anyone?

A The principle investigator is expected to let the staff know that those are the practices. If he attempts to engage in practices which are not university ones, then other authorities will inform him that that is the case.

Q Mr. Schectman asked you, Dr. Fishman, whether the principle investigator sends a requisition for personnel to his dean, and you said yes.

Are those requisitions generally approved by the deans in question?

[859] A They are actually called payroll memorandum if it has to do with staff, and the dean knowing that the funds are there from the granting agency is just a transmittal for the form to the fiscal offices.

* * * *

[863] Q Dr. Fishman, during the past three academic years at Yeshiva, have promotions from one rank to another been accompanied by salary increases?

A Sometimes they have and sometimes they haven't.

Q Dr. Fishman, you have told us that there have been tenure and promotions grievances before the faculty review committee and that fiscal matters are excluded.

What other matters, if you can give us some examples, are within the province of the faculty review committee?

* * * *

[864] A I believe I did say, and I do believe, that they are mostly matters of lack of promotion, non-tenure.

Any other non-fiscal complaints that faculty members might have could be brought to that committee; if he hasn't been reappointed and he feels he should have been reappointed, hadn't been treated fairly or [865] respectfully or essentially anything else.

Any other topic could still be brought there.

I know of some dismissal cases, not in the last three years, but generally I know of some dismissal cases that were brought there.

Q Dr. Fishman, does Stern College for Women have a governance document?

A Yes, it does.

Q Do you know whether that's called a constitution or by-laws or whether it is called statutes?

A I don't remember what it is called.

Q But it does have such a document?

A Yes.

Q Does Yeshiva College have such a document?

A Yes, it has for each of those governing bodies that were mentioned.

Q Do you know of as a fact whether Erna Michael College has such a governance document?

A It should.

Q You don't know of your own knowledge, do you?

A No.

MR. SCHECTMAN: Your Honor, this witness was asked the same question under cross examination.

MR. KRAMER: Yes, the witness—by the way, the witness answered with respect to Erna Michael College, I [866] thing, that there is such an constitution and by-laws, I call it governance document, and this answer on redirect is designed to clarify the record that of his knowledge he is not positive that there is one, that's why the question is being asked.

Q With respect to the Striar School, do you know of your own knowledge whether there is a governance document, whether it is called constitution or by-laws or statutes?

A I haven't seen it. I don't know that there is one.

Q With respect to the Revel School, which is a graduate school, do you know whether there is such a document?

A I believe there is something for the Revel School because I've heard that they refer to the faculty as a whole having a set of provisions.

Q And finally, for Teachers Institute for Women, do you know whether there is such a set of provisions, statutes?

A I don't know, although they have a faculty government apparatus, at least the director consults with the faculty, and when I talk to him he says that he has to consult with the faculty about this.

It is a small operation, therefore, it is hard to be sure whether that's faculty government or just [867] school operation that's involved.

Q Putting aside, then, Erna Michael College and Teachers Institute for Women, would it be correct to state, Dr. Fishman, that all of the colleges in the university, whether graduate or under-graduate, have a goverance mechanism and governance procedures?

A The ones I'm unsure about are Striar and Erna Michael and Teachers Institute for Women.

Harry Fischel I don't think needs to be considered. That's just a summer session of Bernard Revel.

And for all the others, I know there is a statute, a by-laws, constitution.

I don't know what they are called.

And the only one I have a slight doubt about is Bernard Revel.

Q Is it a fact, Dr. Fishman, that there is a welfare committee or concomitant thereof at each of the schools, whether graduate or undergraduate?

A There may not be an official welfare committee in a school like—in a small school where the whole faculty sits as a committee of the whole to consider whatever business comes up, then there would also be the welfare committee as a committee of the whole.

Q Putting that aside, do each of the other schools have a welfare committee?

[868] A Larger schools,—all of the larger schools do.

Q Stern College for one?

A Yes.

Q Yeshiva College?

A Yes.

Q Belfer?

A Yes.

Q Ferkauf?

A Yes. Wurzweiler.

Q And that's so whether they are graduate schools or undergraduate schools, is that right?

A Yes.

* * * *

[869] Q Dr. Fishman, you told us on cross that there is a—there are three categories for applications to the various BA-MA programs at the university, a preliminary stage, a pending stage, and a final stage, whereupon the applicant is either admitted or rejected.

Who reviews the application for admission to the BA-MA programs?

A There is for each of those programs an operational [870] sub-committee of the committee that planned them, and their purpose now that the programs have been planned is to screen the applications and to decide when the application can be accepted or whether it can be accepted.

Q When you say an operational sub-committee, what do you mean, Dr. Fishman?

A One or two of those people that were on the planning committee which remains as a standing committee for responsibility for the program as it develops, commonly I would say one from the undergraduate school is involved and one person from the graduate school is involved who will actually be involved in going through the records of the applicants when they are sent to them by the registrar's office.

Q I think there is testimony on cross that there are admission committees in, I believe, Belfer and Ferkauf.

Are there also admission committees in each of the undergraduate schools, to the best of your knowledge?

A I believe there are. I know for sure for the college, because I've had some spill-over from their admissions committee this past week.

But there must be one for Stern, too.

Q You told us, Dr. Fishman, at the outset of your cross, that the faculty committees at the schools have an in-put, that was your word, re: or about the hand-book, [871] the university hand-book, which is Employer's Exhibit 51 in evidence.

Would you tell us, to the best of your recollection, what kind of in-put you are talking about?

A I think this came up in connection with the revision of the tenure policy and there I know that the welfare committee at the various schools were asked to make comments, had sent in comments to the university committee, the university welfare committee that was going to draft the final version of the revised tenure policy.

Q That's from each school whether it was a graduate school or an undergraduate school, is that correct?

A Yes.

Q Is that also so with respect to the development of the hand-book in the mid '60's?

A In the mid '60's that was true, but there was also an accumulation of prior policy that just had to be brought together, for new policies, for study of policies, that was true.

Q Following the in-put you have just described, what body or bodies or official or officials made the determination about what would go into the faculty hand-book?

A The final determination was made by what was called the dean's committee, which later became the [872] executive committee, then on to the president, board of trustees.

Q Did they play an active role in that, Dr. Fishman?

A The latter, the dean's committee and the executive council, yes.

* * * *

REDIRECT EXAMINATION

[885] Q With reference to your testimony on redirect, you stated that other---that faculty members from other schools worked under you on your grant, did you not?

A Coming from other schools.

Q And that was it, in both cases that they taught courses at the university?

A Yes, in addition to the grant work.

Q Now, with respect to their teaching obligations, were they not primarily responsible to the dean of the individual school where they were teaching?

[886] A That's right.

Q And so in fact you did not have control over them as to their teaching obligation?

A Their teaching obligations were not under the grant.

Q So that in fact their supervisor in terms of their teaching responsibilities would have been the dean, am I correct?

A The dean, the chairman, the program director.

* * * *

[897] SHELDON SOCOL, having first been duly sworn by the Hearing Officer, testified as follows:

DIRECT EXAMINATION

Q (By Mr. Kramer) What is your full name and address?

A Sheldon Socol, 136-18 71st Road, Flushing, New York, 11367.

Q By whom are you employed?

A Yeshiva University.

Q How long have you worked for Yeshiva University?

A 1958.

Q What is your position?

A Vice president of business affairs and secretary of the University.

Q How long have you held that position?

A Approximately two and a half years.

Q What did you do for the University before that?

A From '58 to about '60, I was assistant bursar. From '60 to about '68 I was associate bursar—from '60 to '68 I was director of student finances. From about 1971 I was secretary of the University and then vice president for business affairs.

Q Dr. Socol, what are your responsibilities as vice president for business affairs?

[898] A They are manifold but basically I would say they relate to general administration and planning, fiscal and business management, personnel matters and general responsibility for such departments as physical plant, auxiliary services and security and safety, etc.

Q Let's deal with physical plant, sport and auxiliary services for a moment, Doctor.

Is buildings and grounds within the definition of what you gave us?

A Yes.

Q Is there a single buildings and grounds department for the entire University?

A Yes.

Q And its director reports to you?

A That's right.

Q Is security within the term "physical sport" and auxiliary services?

A Yes.

Q Is there a single security department for the entire University?

A Yes.

Q And does its director report to you?

A Yes.

Q Is data processing one that classification?

A Yes.

[899] Q Is there a single department for the entire University?

A Yes.

Q And does that department head report to you?
A Yes.
Q Would accounting and payroll fall within the definition, physical sport and auxiliary services?
A Yes.
Q Is there a single accounting department for the entire University?
A Yes.
Q And a single payroll department for the entire University?
A Yes.
Q And the heads of those two departments report to you?
A Yes.
Q Is there a single fund raising department for the entire University?
A Yes.
Q And does the head of that department report to you?
A He doesn't report directly to me.
Q To whom does he report directly?
A The president.
Q Is there a single registrar's function for the University?
[900] A Yes.
Q And a single alumni office?
A Yes.
Q And a single admissions office?
A Yes.
Q And a single student services office?
A Yes.
Q By office I mean function or department.
Is there one food service department for the university?
A Yes.
Q And does the head of that department report to you?
A Yes.
Q Is there a single mail department for the entire University?
A Yes.

Q And does the head of that department report to you?
A Yes.
Q Is there a single telephone switchboard for the entire University, I'm putting aside the medical school.
A Understood. In essence, there are two, one services the entire main center, the second services the—both the midtown and the graduate center.
Q Where is the Stern College—where are the Stern College phone services?
[901] A The graduate school.
Q And the Stern College is an undergraduate school, is it not?
A Yes.
Q In addition to being charged with the control of physical plant, sport and auxiliary services, you are also involved with general administration and planning?
A That's right.
Q Would you tell us what that function involves?
A That means working with the deans, the other vice president, senior vice president and executives of the institution with respect to operational requirements, short and long term planning, fiscal requirements, organizational and structure of the institution.
Q You also told us that one of your functions is business and financial planning, what does that involve, Dr. Socol?
A That involves not only the maintenance of fiscal records with regard to expenditures and liabilities of the University but also making certain that income due the University is timely received, recorded and accounted for. Disbursements that are due, are properly recorded and made in a proper manner and that assets of the institution are properly protected.
Q You told us that you are involved with personnel, [902] what does that mean?
A It would be helpful to characterize the personnel within the university as two kinds, faculty and other than faculty.
Q Would you tell us about your function with respect to personnel, other than faculty?

A Other than faculty, it is my basic responsibility to make certain that the salary and wages are in conformity with either contractual agreements that we have, that working conditions are being properly adhered to. That grievances when they arise are properly resolved.

Our relationship with members of the staff protect both the interests of the employees and the interests of the institution.

Q Would you tell us about your role, in a general fashion, with respect to faculty personnel?

A My involvement with faculty personnel is of a different nature. Primarily my involvement relates to the staffing of individual schools with regard to the fiscal consequences of appointments and the expanding or contracting the number or the level of the faculty involved.

Q Do you sit on many administrative committees?

A Yes.

Q Do you sit on certain faculty committees?

[903] A Yes.

Q Could you just tell us, I know it is a long list but give us a feel for the kinds of committees that you serve on at the University?

A Well, I serve on the Committee of Ceremonial Occasions which takes care of the University's ceremonies.

I'm on the Academic Computer Committee which is other than the administrative computer. It is the computer physically housed at the College of Medicine used by the University for research and for scientific purposes.

I'm on both the undergraduate as well as the graduate council.

I'm on the Yeshiva College Senate.

There are many, many other committees.

Q Now, Doctor, are you also chairman of a joint committee of the graduate and undergraduate councils?

A Yes.

Q Would you tell us about that?

A I don't recall the precise date but I believe it was in the first week of June of 1974 that at a meeting of the graduate council which is composed of graduate faculty, graduate students as well as member of the administration, it was suggested by a member of the faculty of one

of the graduate schools that it would be helpful to them and indeed to the institution if the graduate [904] council as a committee of the whole, would undertake to review academic priorities within the institution and the allocation of resources in accordance with those priorities.

It was further suggested at that meeting that this could not be done in a meaningful sense by the graduate council alone and it would be helpful and expected that the undergraduate council join them as a part of the committee as a whole.

I was asked to serve as chairman of this joint committee.

* * * *

Q Dr. Socol, I show you Employer's Exhibit Number 78 marked for identification, it is what apears to be a letter on Yeshiva University stationery, vice president for business affairs office, indicated July 18, 1974 and it appears to be sent out under your signature, even though your signature does not appear there.

Was this letter in fact sent?

A Yes.

Q And under your signature?

A Correct.

Q To whom was the letter sent?

[905] A To all members of the undergraduate and graduate council.

Q Why was this letter sent out?

A The letter explains that this is in response to a discussion that took place at the graduate council meeting of June 3 and the further conversations that I had had as chairman of this new committee with Rabbi Gross who is chairman of the undergraduate council and at the request of the graduate faculty that we use the opportunity of the summer to begin work of the committee, I called a meeting for August 12.

* * * *

Q Now, Doctor, in addition to being on all the committees that you have just described, are you also a member of the University budget committee?

A Yes.

Q Do you play a role in budgeting?
A Of course.
Q Would you describe that role?
A Well, the role is actually two-fold and it overlaps. [906] I have been a member of the University budget committee since it was established, before I became vice president for business affairs and I worked with Dean Rabinowitz who was chairman of that committee since 1971 in regard to formulating budgets for the various components, component parts of the institution and for the institution as a whole.
Q Was a budget committee appointed?
A Yes, by the president.
Q Who is on that committee?
A Dean Rabinowitz is the chairman, I'm on the committee, Professor Silverman is on the committee.
Q Dean Rabinowitz is dean of which school?
A Erna Michael College.
Q Is that an under-graduate school?
A Yes.
Q And Professor Silverman, what is his function in the University?
A University registrar.
Q For all the schools; is that correct?
A Yes.
Q This committee is appointed by the president?
A That's right.
Q Would you tell us what the purpose of the committee is, what it does.
[907] A The purpose of the committee is to provide for a vehicle to assure fiscal stability and viability of the institution.
Q When was it first created, Dr. Socol?
A It was created either in late '70 or early '71.
Q In response to particular events or circumstances?
A Yes.
Q Would you tell us about those, please?
A The university's fiscal year which ended at 6/30, 1970 indicated a significant deficit and the fiscal crisis which developed at that time forced the institution to take several steps to counteract that crisis, and one of those

steps was the establishment of a Universitywide budget committee to make better utilization of existing resources and to make certain that our income and our resources and our expenditures were more consistent with each other.
Q Was a committee on integration and coordination created at that time?
A Yes. One of the things that was established was a committee of integration programs.
Q What was the role of that committee?
A To evaluate the course offerings in essence and the faculty strengths in the various schools to see in what degree—to what degree we were duplicating our [908] efforts and to see how we could strengthen our academic efforts.
Q Did that committee function?
A To the best of my knowledge it did.
Q Was there also a committee set up at that time on class size?
A Yes.
Q Will you tell us what the role of that committee was?
A The role of that committee was to establish guidelines for the various schools of the institution so that there would be known, predetermined parameter in the area of enrollment before a course was offered.
Q You made reference to a committee on coordinated and integration and a committee on class size.
Will you tell us from whence the membership of those committees were drawn?
A From faculty and administration. Certainly it may even have included students, I don't recall.
Q From all the schools?
A Yes.
Q Graduate and under-graduate alike?
A Yes.
Q Let's return to the budget committee, Dr. Socol. How does the budget committee go about accomplishing [909] its purpose?

A Its first approach is to acquaint and inform members of the University committee of the factual basis of the fiscal position of the institution.

At the same time, by meeting with various groups in the institution, the committee is informed of the programs, activities, desires of the various groups within the institution.

And through serious discussion and cooperative approach, we've been able to indeed accomplish a reduction in the deficit.

Q I think Dr. Fishman when he was on the stand testified in words or substance that budgeting is an ongoing process, was that a correct statement?

A That's correct.

Q Would you explain what that means?

A Budgeting begins with where we have been, so there is a frame of reference of what our expenditures were last year and the year before, what we have been able to do in terms of activities with those dollars.

We try to translate those dollars into a pattern of the future. A budget is a fiscal blueprint in terms of what activities the institution has and what it would cost to continue those activities, to reduce or to expand them.

[910] Q Is the term "cost center" used at the University?

A Yes.

Q Used in connection with budgeting?

A Yes.

Q Is the term center or cost center used at the Uni-' versity?

A Yes.

Q Will you define those terms for us as used at the University?

A For many reasons, fiscal data is a management tool and we monitor data both in terms of income and expenditure under a cluster of programs or projects or activity.

Sometimes it may be a group as large as a school or a group as small as a particular project. This depends upon the level and activity on which we want to monitor the expense.

Q How many cost center do you have, approximately?

A We deal with approximately seventy significant or major cost centers.

Q Would you give us some examples of major cost centers?

A Department of buildings and grounds, department of food services, the Belfer School, Yeshiva College is a major cost center.

[911] Q I used the term cost sub-center, will you tell us what that term means?

A A cost center would be a refinement of a major cost center.

For example, the department of physics would be a sub-cost center within the Belfer School.

Q Does the budget committee meet with the administrative officer of each of the major cost centers?

A Indeed we meet possibly more frequently or less frequently based upon the nature of the activity, but we meet with every department head.

Q The dean or a dean would be an administrative head of a cost center that would be a school?

A Yes.

Q And a department head would be the head of a cost center that was a department; is that correct?

A Yes.

Q Now, is the budget or a draft budget prepared for each of the major cost centers?

A Yes.

Q By whom, Dr. Socol?

A It is prepared by the chief administrator being the director of that cost center.

Q After consultation with the budget committee?

A After consultation with the budget committee and [912] in compliance with University-wide budget guidelines.

Q Now, to whom is the draft budget submitted?

A The draft budget is submitted to my office where it is reviewed by myself and chairman of the budget committee and from there it is submitted with our recommendations to the president.

Q Is there usually agreement between the budget committee, your office and the administrative officer who submits the budget?

A Generally the budgets when they are finally submitted are a reflection of the general consensus that was reached.

Q When there is disagreement, how is disagreement resolved?

A At a joint meeting with the budget committee, the president and the chief administrator of the cost center involved.

Q Is that so whether the cost center is a graduate or an under-graduate school?

A Yes.

Q Whether the cost center is a department or a school?

A Correct.

Q Now, Dr. Socol, is the rather large degree of consensus that you have just described furthered by the existence of University-wide budget guidelines?

[913] A Yes.

Q Would you explain to us how these guidelines come about?

A Periodically, either myself as vice president for business affairs or dean Rabinowitz as chairman of the budget committee or jointly, we raise for consideration by the executive council, a series of budget guidelines to be used which, after discussion, and perhaps modification, are then submitted to the president for his approval.

Q Once those budget guidelines are approved by the president, are they disseminated?

A Yes, they are reduced to what in the past has been a letter from myself to the individual dean or director or major administrator, informing him of the budget guideline.

Q This executive council you referred to, that contains representatives of both the graduate and undergraduate schools?

A That's correct.

Q There isn't a separate executive council for graduate or undergraduate schools, are there?

A No.

Q There aren't separate guidelines for graduate and undergraduate schools, are there?

[914] A No, the guidelines are university-wide.

MR. KRAMER: 79.

(Employer's Exhibit 79 marked for identification.)

Q Dr. Socol, you have told us that the budget guidelines are disseminated over your signature; is that correct?

A Yes.

Q University-wide dissemination; correct?

A Yes.

Q Who gets copies of these guidelines?

A Every dean, director, major administrator who is responsible for a cost center.

Q Dr. Socol, I show you Employer's Exhibit marked 79 for identification, apparently again on the letterhead of Yeshiva University, vice president for business affairs, it appears to be a letter to "Dear Colleague" under date of August 15, 1973, signed by you; are you familiar with this letter, Doctor?

A Yes.

Q Did you actually send this letter?

A Yes.

Q Would you tell us what it represents?

A This letter represents the notification to deans, directors and administrators providing them with budget [915] guidelines for the fiscal year ending 6/30/74 and other related fiscal data.

Q Let's turn to page 2 of this exhibit and more particularly to paragraph numbered one on that page.

This paragraph states: "The University freeze on the hiring of new non-academic personnel will remain in effect during 1973/74.

This freeze—"

MR. SCHECTMAN: I object to him reading the exhibit into the record. The exhibit is before the witness

and has been marked for identification and speaks for itself.

MR. KRAMER: Normally, Mr. Hearing Officer, I would withdraw the question at this point. I'm going to ask a series of questions about this exhibit. It is a rather lengthy exhibit, it has several numbered paragraphs that I'm going to deal with in series and I thought it would be easier for the reader of the record, rather than to refer to the naked document, that we could have the text of the document in the record so we won't have to go back and refer to it each time.

I would like to continue this way.

MR. SCHECTMAN: I think the paragraphs are numbered, the pages are numbered, reference can be made to them and to their substance without going into the unnecessary [916] delay and the cluttering of the record of reading a four-page exhibit into it.

MR. KRAMER: I'm going to read the four-page exhibit into it.

THE HEARING OFFICER: I assume he wouldn't be reading it in detail.

I'll overrule the objection.

You may proceed.

MR. KRAMER: "The University freeze on new non-academic personnel will remain in effect during 1973/74. This freeze includes the hiring of replacement personnel as well as personnel for proposed new positions.

A freeze on overtime also remains in effect. In extenuating circumstances, requests for a variance to these policies can be submitted to this office."

Q Are you familiar with that paragraph, Doctor?

A Yes.

Q You actually wrote that, did you not?

A In essence, yes.

Q Will you tell us what the general essence on the freeze on the hiring on new non-academic personnel was?

A That occurred when the fiscal crisis in 1971 became apparent and the president, chairman of the board and vice chairman of the board convened a meeting of the executive council where the fiscal problems of the [917] University were discussed.

One of the first directives in regard to the fiscal crisis was the freeze on hiring the new non-academic personnel.

Q Did this freeze apply to all of the schools of the University?

A Yes.

Q Graduate and under-graduate?

A Certainly.

Q The paragraph tells us that a freeze on overtime also remains in effect. When did this freeze start?

A The same time.

Q Was it also University-wide?

A Yes.

Q It applies to both graduate and under-graduate schools; correct?

A Yes.

Q The variance referred to in the last sentence is obtained from your office; is that correct?

A Yes.

Q Is that so for graduate and under-graduate schools?

A That's correct.

Q No difference between Belfer and Yeshiva College?

A No difference.

Q Let's turn to the second paragraph on page two, [918] Doctor, a paragraph which states "Budgets for 1973/74 cannot exceed the approved or actually 1972/1973—"

MR. SCHECTMAN: I object again. Counsel for the University is reading these paragraphs verbatim. The first paragraph could have been alluded to by reference. The examination was merely as to the overtime and hiring freeze. He is insisting upon reading this document into the record and I'll renew the objection at this time.

MR. KRAMER: I'm not going to read the entire document into the record. These are short paragraphs.

THE HEARING OFFICER: All right.

Q "Budgets for 1973/74 cannot exceed the approved or actually 72/73 expenditure level, whichever are less.

This means that all inflationary costs and salary adjustments must be absorbed within existing funding levels."

Doctor, are you familiar with paragraph two of the letter?

A Yes.

Q The first sentence of that paragraph applies to both graduate and under-graduate schools?

A Yes.

Q Ferkauf, Stern, Belfer and Yeshiva and all the other schools?

A Yes.

[919] Q There is a reference to existing funding levels in this paragraph, what does that sentence mean to us in lay terms?

A That relates to the prior level of University funds allocated to a given school, program or project.

Q Now, Doctor, the third paragraph of this letter and out of deference to my brother, I won't read it, it is a long paragraph, I'll read one sentence: "Salary increases must be absorbed within existing funding levels."

What does that mean?

A That's a mandate to the dean, director or administrator that he must operate his school program in such a manner that sufficient dollars are available to cover mandated increases for members of staffs for that school or program and for other increases which may be necessary.

Q In other words, additional funds would not be provided from University sources to take care of those matters; is that correct?

A Yes.

Q Is that so for all of the schools, graduate or undergraduate, it makes no difference?

A That's correct.

Q Let's turn to paragraph 4, it is a short paragraph [920] and it states "Without specific approval, salary charges for personnel in a school or department cannot be transferred from sponsored research or grant funds to university funds,"

Are you familiar with that paragraph?

A Yes.

Q What does that mean in lay terms, to people who are not university administrators?

A At times, personnel who have been funded through a sponsored project or grant, find themselves in a position where either the grant is not renewed or renewed at a different funding level and their source of funding is no longer available.

This sentence or paragraph means that they cannot be transferred to the funding source of the University funds without specific approval.

Q Is that so no matter where the research is performed?

A That's correct.

Q Whether it is performed at Stern, Yeshiva—

A That's correct.

Q Let's turn to the fifth paragraph, it is a long paragraph and I'll read the entire paragraph.

MR. SCHECTMAN: I renew the objection at this time. I ask the Hearing Officer to read the paragraph make a ruling as to whether it is necessary to read it.

[921] MR. KRAMER: At counsel's objection, I'll not read the entire paragraph into the record, simply the first sentence and I'll ask some questions.

I would hope when cross examination comes, the same rule is followed with respect to this paragraph. Otherwise I would read the whole thing in.

I'll read the first sentence and I'll ask some questions about it.

Q "To the degree that a school or department can generate unrestricted income such as tuition, such funds in part may be used to justify an increase in the funding level over and above that of 1973-73."

What does that sentence means?

A At times a school or department may be able to generate additional income such as tuition. And this paragraph attempts to deal with the disposition of such additional income.

Q Now, assuming that a school or department was able to generate additional income, is it free to use that income as it sees fit?

A All income is University funds and the question deals with, to what degree can such additional income be used for the specific project, department or school?

Q Were instructions issued in that letter with respect to that?

[922] A Instructions were issued indicating that the school or department cannot expect to use all of those funds by any means.

Part of those funds must be used to decrease the existing deficit. It goes on further to say, to what degree a department may have use of such funds for their purposes are subject to discussion with the budget committee and approval of the president.

Q The budget committee is made up of the dean of Erna Michael College, yourself and the registrar; is that correct?

A Yes.

Q Let's turn to the sixth paragraph on page three.

A paragraph that says "Every dean and director was charged by the president two years ago with the responsibility of reducing the direct 1970-71 operating deficit during 1972 by a minimum of fifty percent."

Is that a correct statement?

A Yes.

Q What is a direct operating deficit?

A For internal management purposes, we have been calculating budgets on the basis of direct income which is the income directly attributable to a school, department or unit and its direct expenses which are expenses which, in essence, the dean or director has control [923] over and which relate directly or specifically to the operation of the school.

At a school it would be the faculty salaries or laboratory supplies.

In a working department it would be the salary of the personnel action in that department and the goods and supplies they actually order and purchase.

Q Now, Dr. Socol, is this accounting system the same for each of the schools?

A It is the same for each school, department and activity of the institution.

Q Mandated by your office; is that correct?

A Yes.

Q The paragraph continues "This objective was conitnued during 1972/73"; is that correct, a correct statement?

A Yes.

Q What does that mean in lay terms?

A It means that the effort to further reduce the direct expense will be continued.

Q It concludes with "Our efforts during 1973/74 must be directed to further reducing the operating deficit level. One step in the budget finalization process for 1973-74 will be an evaluation of the progress made by each school and department of fulfilling by this date, [924] the presidential charge as outlined above."

Who has made that evaluation, Dr. Socol?

A The evaluation actually took place as the budget committee met with each dean and director in terms of determining justification for the budget level requested for the following year.

Q That evaluation is made by the budget committee, is it not?

A Yes.

Q A central university committee?

A Yes.

Q The goals and aims embodied in paragraph six on page three, do they apply to all graduate and undergraduate schools?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 79 in evidence.

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibit 79 is received in evidence.

(Employer's Exhibit 79 was received in evidence.)

Q Dr. Socol, were guidelines similar to those embodied in Employer's Exhibit 79 distributed for the 1972-73 school year?

[925] A Yes.

Q And are such guidelines in the planning stage for 1974-75?

A Yes.

Q Now, let's turn to faculty salaries. With the exception of Belfer, a graduate school, Strier, an undergraduate school, Erna Michael College, an under-graduate school, and the Bernard Revel Graduate School, how have faculty salaries been set in recent years and by that I mean since on or about 1969, in or about 1969.

A It was about '68 or '69 when the university and the faculty of several schools both graduate and undergraduate established a salary scale for respective members of their faculties.

Q When you said established a salary scale, Dr. Socol, what do you mean by that?

What do we envision when we say this?

A We should visualize a tabulated form of salary depending upon academic rank, years of service in that rank.

Q Is there such a salary schedule for the Ferkauf?

A Yes.

Q Is there such a faculty set-up for Yeshiva College and Stern College jointly?

A Yes.

[926] Q Is there such a schedule for Wurzweiler?

A Yes.

MR. KRAMER: 80A and B marked Exhibit 80 for identification.

(Employer's Exhibit 80A, B marked for identification.)

Q Dr. Socol, I show you Employer's Exhibit 80A marked for identification that is in front of you now, and more particularly the top set of numbers which are headed Ferkauf.

Is that the salary schedule for the Ferkauf School?

A Yes.

Q Now, the second set of numbers reads Yeshiva College, Stern College; is that the salary schedule for Yeshiva College and Stern College?

A Yes.

Q And finally I show you Employer's Exhibit 80B, is that the salary plan for Wurzweiler School?

A Yes.

Q Wurzweiler School is a graduate school, I take it.

A Yes.

Q Ferkauf School is a graduate school?

A Yes.

Q And Yeshiva and Stern Colleges are under-graduate schools?

[927] A Yes.

Q These schedules, and I'm referring to the ones before you, Doctor, were promulgated in or about 1969 for the first time; is that correct?

A Yes.

Q Do you know whether there was slotting required when these schedules were promulgated?

A As best as I'm able to recreate from my files and records, it would appear that when the faculty scale was introduced, existing members of the faculty were assigned, slotted into an appropriate level of the scale.

Q That's for all the scales that I have in my hand, 80A and 80B.

A That's correct.

Q That was in 1969 and 1970.

New hires, or acquisitions from any source, would you tell us how salaries were increased in the schools covered by Exhibits 80A and 80B during the period 1969 and 1970 through 1972-73?

A In essence, each year, a member of the faculty advanced one step, based upon his rank and years of service as the scale provided.

There was one year, 1971, 72, when the institution plan dated an economic freeze on salaries due to the fiscal crisis which I described and no one within the [928] institution received a salary increase during '71 and '72.

Q And that's so whether it is an undergraduate or graduate school?

A Yes, or other than that.

Q It didn't make any difference whether the faculty member was in the bargaining unit of the schools sought here or not; correct?

A Yes.

Q Uniform.
A Correct, yes.
Q Was any adjustment made in the school on Exhibit 80A for the 1972-73 school year, an adjustment that doesn't show on here?
A There was one adjustment for the academic rank referred to as instructor. We without real adjustment to the scale, instructors who were at maximum, received an additional five hundred over and above the scale.
Q Now, let's turn for the moment to the salaries for 1973-74. For 1973-74 and I'm referring to the scales, 80A and 80B at their point, was any adjustment in the scales themselves made for 1973-74?
A Not really.
Q Even though the scales themselves were not adjusted, was a pay adjustment made for faculty members who were [929] in Ferkauf, Yeshiva College and Wurzweiler for 1973-74 and if so, what faculty members and what was the adjustment and I don't mean by name.
A The University responded to the economic pressures of recent years by providing those who were at maximum, maximum meaning that they had reached the maximum salary for their rank and their years at rank by giving them a five percent increase of their base salary.
Q And that five percent increase does not appear on those scales, does it not?
A No, it does not.
Q And that five percent increase for people at maximum was provided people at Yeshiva College?
A That's right.
Q Stern College?
A That's right.
Q Ferkauf?
A Yes.
Q Anyone who was at top scale at Wurzweiler?
A It provided for anyone who was at maximum, at the five percent level.
Q Now, would you describe for us the process by which this five percent adjustment came about?

A It varied, as I recall. The budget committee as such, with the deans of the undergraduate schools met [930] with the faculty welfare committees of the undergraduate schools to discuss this and we indicated to them some time, if I recall, early last summer, that this was the posture of the institution with regard to those individuals who were at maximum.
In regard to the Ferkauf School, there were several meetings taking place with the dean and with members of both faculty and department chairmen with regard to the budget of the Ferkauf School for the 1973-74 fiscal year and this was casually discussed there as an institutional decision.
With regard to the Wurzweiler School, there were no discussions other than with the dean.
These are the four schools related to the scale.
Q There were discussions with the welfare committee at Yeshiva College and Stern College?
A Yes.
Q Those are undergraduate schools?
A Yes.
Q And there were also discussions as you just characterized them at Ferkauf and Wurzweiler?
A Yes.
Q Now, Dr. Socol, Belfer Graduate School, Stryer, an under-graduate school, Erna Michael, an under-graduate school and Revel, a graduate school do not have [931] pay scales as those found in 80A and B; correct?
A That's correct.
Q Do they have published salary scales?
A No sir.
Q Do they have unpublished salary scales?
A They do not.
Q Do the faculty at Belfer receive a salary increase for 1973-74?
A Yes.
Q Was it across the board?
A Basically, yes.
Q And approximately what percentage was that increase?
A Five percent.

Q Was it essentially the same treatment given at Erna Michael College and—

A That's correct.

Q And you have told us that the top rated faculty at maximum of scale in the schools listed at 80A and 80B received a five percent increase, is that correct?

A That's correct.

Q Did the budget committee meet with the welfare committee or any other committee at Belfer in order to determine that the five percent increase—approximately five percent increase would be given?

A It did not.

[932] Q Did it meet with any welfare committee at Erna Michael College?

A It did not.

Q Did it meet with one at Revel?

A It did not.

Q Did it meet with one at Stryer?

A It did not.

Q Did it meet with some kind of a committee other than what might be called a welfare committee at any of the schools to arrive at that increase?

A No, not for that year.

Q Dr. Socol, are you familiar with tuition levels that exist in each of the various schools within the university?

A Yes.

Q Dr. Socol, what is the most significant factor or what are the most significant factors, let's put it that way, that go into determining what tuition levels will be in a particular school at a particular time, if you know?

A Well, basically it relates to what our enrollment patterns are, what other institutions are charging, what degree of student financial aid we have available and at what level we can hope to attract the student who is a good academic student, in terms of our pricing [933] structure. I don't want to call it marketing but to a great degree, the tuition structure relates to that.

Q It would be, in a sense, a marketing concept, would it not?

A Yes, to a degree.

MR. KRAMER: I offer Employer's Exhibit 80A and B in evidence.

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibits 80 A and B are received in evidence.

(Employer's Exhibit 80A and B are received in evidence.)

MR. KRAMER: Mark this 81, please.

(Employer's Exhibit 81 marked for identification.)

Q Dr. Socol, at my request and in preparation of this case, did you review the tuition charges that will be in effect at Yeshiva University for the 1974-75 school year with the exception of the medical school?

A Yes.

Q And did you have an exhibit prepared to reflect those charges?

A That's right.

Q Now, does the exhibit reflect the current charges?

A The exhibit reflects the charges which will be in [934] effect in September of 1974.

Q To the extent the exhibit may differ from the catalogues, I assume the exhibit is correct?

A That's right.

Q I show you Employer's Exhibit 81 marked for identification, a document entitled Yeshiva University 1974-75 schedule of tuition charges.

Is this the exhibit to which you have just referred?

A Yes.

MR. KRAMER: I'll offer Employer's Exhibit 81 in evidence.

MR. SCHECTMAN: No objection.

THE HEARING OFFICER: Employer's Exhibit 81 is received in evidence.

(Employer's Exhibit 81 received in evidence.)

Q Are you familiar with the process at which tuition levels are established and changed?

A Yes.

Q Would you tell us from your prospective as vice president of business affairs how that process takes place or what it involves?

A Periodically at my direction or at his own initiative, the University director of finances, analyses the tuition structure and compares it with those [935] tuition structures of other universities and meets with the dean of the school and submits a joint recommendation as to whether the charge should be maintained or revised in some way.

Q The joint recommendation involves the student director of finances for the university and the dean of the school?

A Yes.

Q And to whom is that recommendation made?

A That recommendation is made to me. I in turn submit that recommendation to the university executive council which either recommends it, modifies it and then it is submitted to the president for his approval with my recommendation.

Q Dr. Socol, have you had reason recently to examine into tuition charges at several universities in the New York City area?

A Yes.

Q Can it be stated as a general rule that graduate tuition is higher or lower than under-graduate tuition?

A It appears that graduate tuition is lower than under-graduate tuition.

Q Is this uniform throughout the schools?

A No, you can find examples where graduate tuition is higher and you find examples where it is lower and [936] indeed there is no pattern.

Q Universities don't have a uniform pattern in this regard?

A No, they do not.

Q Dr. Socol, faculty members are hired at Yeshiva University each year, are they not?

A Yes.

Q Do you have a role in determining what salary is to be paid to a new hire?

A Yes.

Q Would you give us a feel for what that role is?

A Generally it relates to consultation discussions with the dean of the respective school or the vice president for academic affairs who initiates either the search for a potential new appointee or after a new appointee has been interviewed and acceptable academically or otherwise and we would discuss where the individual would be slotted in with regard to the existing salary scale if there is one or the perimeters of the salary if there is not one, what the funding sources would be and what the long range fiscal implications of such commitments would be.

Q Do you have a decision-making role in this function?

A Yes.

[937] Q Tell us about that.

A In general we try to approach academic life by arriving at decisions by consensus but indeed if I felt that a given situation was beyond institutional philosophy or policy, and I couldn't support that decision, I would not act upon it which would mean in essence that an individual could not get paid, could not be appointed.

Q Would it be fair to say, Dr. Socol, that you have an effective veto?

A I would have an effective veto until overruled by the president, yes.

Q Have you in fact exercised that veto?

A No.

Q Have you engaged in discussions about—

A Yes.

Q Is that the normal way you operate?

A Yes.

I can give examples of salary requests that have changed significantly from the time that they were submitted to me. But through the process of discussion and cooperation, there was a general consensus and agreement that the appointment could be consummated.

Q Would it be a fair statement that salary levels for new hires are not established by the deans of [938] particular schools?

A Certainly not so.

Q They are established in this process of consensus that you described?

A Yes, within the perimeters of institutional policy.

Q Let's turn to the subject of research grants.

Would you tell us from your prospective how a faculty member goes about securing research grants?

A By and large members of the faculty are quite sophisticated and knowledgeable about the specifics of which federal agencies. individuals or foundations have funds to distribute for research or sponsored activities, what they are interested in and what the mechanics are for about going about for a proposal.

It varies from school to school as to what departments are involved or faculty members are involved.

But, the individual who conceived of the idea, prepares the proposal, solicits the support of the dean and the proposal is submitted to the funding agency.

Q Now, Dr. Socol, do many of the grant proposals come across your desk?

A Yes, many do.

Q And is it common to find, particularly on the larger grants that the names of particular faculty personnel are specified other than the principal investigator?

[939] A Yes.

Q Is it also typical on grants to have the number of research assistants and clerical supports specified in the cost?

A Yes.

Q Who selects these faculty other than the principal investigator to work on a particular grant?

A To the best of my knowledge it is basically the principal investigator.

Q You don't do it, do you?

A No.

Q Does the academic vice president do it?

A No sir.

Q To your knowledge does the dean do it?

A No sir.

Q Who selects the research personnel to work on the grants, assistants and research associates and others?

A The principal investigator.

Q Who selects the clerical people to work on the grants

A In essence it would be the principal investigator.

Q And by "select" you mean hire?

A If it is a new hire, yes. If we are dealing with people already abroad, the principal investigator may have to draw from people presently on the staff.

[940] Q I would say it that employment on a grant is a valuable source of summer income among other things to faculty members?

A Yes.

Q Principal investigator and others?

A Yes.

Q You're chief financial officer of the University?

A Yes.

Q Are the personnel employed to service these grants, principal investigators and others, are they employees of the university?

A Of course.

Q Do they appear on the university payroll?

A Of course.

Q Does the university pay workman's compensation for them?

A Yes.

Q Does it pay social security for them?

A Yes.

Q Does it cover them with its other liability insurance policies?

A Yes.

Q And do the normal university personnel control policies and measured applied to these personnel?

A Institutional personnel policies are applied to [941] to these personnel.

Q They are not employees of the grant investigator, are they?

A Certainly not.

Q Doctor, putting aside the medical school, does the university have a personnel department?

A It does not.

Q By the way, do any of the schools—putting aside the medical school again—have a personnel department?
A No.
Q Dr. Socol, is there anyone in your office who supervises the work performed under research grant or under research grants?
A No.
Q For that matter under training grants?
A No.
Q Who directs the work of the personnel engaged on a particular research grant or grants?
A The principal investigators responsibility are both in terms of assurances to the university and to the funding agency that the sponsored project will provide as the proposal indicated and specified.
Q The principal investigator directs the work of all personnel on a project; is that correct?
A Yes.
[942] Q Whether they are faculty members, research assistants, clerical employees or student employees?
A That's correct.
Q Does he have the authority to reprimand them?
A Yes.
Q To dispense with their services on the grant?
A Yes.
Q To dispense with their services all together where they are not otherwise protected?
A Yes.
Q Does the principal investigator have the authority to grant time off?
A He has the authority to modify the schedule but the perimeters are the policies—
Q Within those policies—
A Within those policies, yes.
Q To whom is the grant money given, Dr. Socol?
A The grant is an obligation, a responsibility of the university. All grants funds are issued to, made payable to the institution, the university.

Q To whom does the university look for the management of the project that is the object of the grant?
A The principal investigator.

* * * *

CROSS EXAMINATION

[1000] Q Is it not the dean of the individual school hiring a new faculty member who first submits a recommendation as to the incoming salary rate of that prospective faculty member?
A It's the dean who initiates the action and who begins the discussion which could be the recommendation, yes.
Q You will meet at least annually with the dean for the preparation of the budget at the individual schools, will you not?
A Well, as I described, the budget is an ongoing process. It's not an annual meeting. It's a series of meetings which take place consistently.
Q Generally at what time of the year is the budget prepared?
A I want to reemphasize the point that that is an ongoing process. We never finish one before beginning the other.
Q In the preparation of all the budgets for all the schools in the university, will you always speak to the department chairman of every department of every school of the university?
A Yes. Dean Rabinowitz or myself or in most cases, jointly, we meet with the major administrator, the director of every department of the institution. And indeed we meet with students and faculty groups and other groups as [1001] well.
Q So that even to some extent, the entire faculty have some advisory role in the formulation of a budget?
A Yes.
MR. KRAMER: We would so stipulate, Mr. Schectman.

* * * *

[1028] Q I would now like to turn your attention to the area of the principal investigator. You indicated in your direct testimony that the university issues checks

for the salaries and likewise pays for the firing benefits of those persons employed under a grant.

A That's correct.

Q Where are the funds derived from that pays those people—

A In the individual, or employee, is directly funded through a grant project and allocated through that [1029] project, the ultimate source, the Federal Government is the sponsoring agency.

Q Is it correct that in most cases the salaries and monies are provided by the—if a person is employed solely to work on a grant, has no other responsibilities in the university his entire compensation provided for by grant funds—

A Ultimately, yes.

Q And his compensation would include both his direct salary and fringe benefits, would it not?

A Correct.

Q And will grant funds pay a portion of the faculty member's salary who is working on a funded grant?

A A grant will absorb the cost of a faculty member to the degree that the faculty member is furthering the research of that project, yes.

Q How is that distinction made relative to whether he is acting in another role with the university—

A It's basically made by the principal investigator who inserts the time that the individual member has performed work on the project.

Q What allocation will he make? Will it be a percentage of his time—

A It varies somewhat from federal agency to federal agency, but the Federal Government will accept any [1030] number of reasonable hours—

Q Will this same kind of allotment of time be taken into consideration for the definition of the faculty member's work load?

A I don't follow the question.

Q For graduate school faculty that we have heard on the testimony of Dr. Fishman that there is a definition of full time faculty status according to the time that might be spent teaching or time that might be spent with

grants, is there normally a correlation between the percentage of time, a faculty member spends in furtherance of the grant and the credit he receives toward the definition of full time status?

A There should be. I believe there to be.

Q Do you know how many faculty members or approximately how many faculty members have grants which stand for more than 50 per cent of their allotted time?

A No, I wouldn't even want to guess and I should also point out that many faculty members have two and three and four grants in addition to the other responsibilities. It would be very hard to guess.

Q Is it not true that some grants will require special equipment?

A Certainly.

Q And the university will issue a check for the payment—[1031] checks for the payment for the purchase of such equipment?

A The university is the one held responsible for ultimate responsibility of the project. Certainly in the hiring of personnel or the purchase of equipment that is done.

Q And the equipment that is necessary for a grant, I assume that usually will be designated in the grant application?

A If it is a relatively large piece of equipment, the granting agency will probably require that it be specified.

Q And the grant funds, if that equipment were deemed necessary, would allow for its purchase?

A It could allow for its purchase.

Q Now, you testified also that the terms of employment of personnel used solely for a grant are governed by university policy, did you not?

A Yes.

Q And is that not a requirement in fact, of most of the granting agencies?

A Certainly.

Q That all personnel hired under a grant must be employed pursuant to the personnel policies of the university?

A That is correct.

Q And is it not true that the university would be [1032] primarily responsible for setting the terms of employment including salary for all those employed under a grant?

A Only within broad perimeters.

Q Is it not true that there are suggested to principal investigators very specific annual increases in salaries allowable?

A To answer your question, you would have to either break it down into categories of employees, because it may vary.

Q Are you familiar with the grant that Professor Goldstein at the Ferkauf Graduate School—

A Mr. Goldstein has a rather large contract, not a grant.

Q Pursuant to the contract, are not the terms and conditions of the personnel employed thereunder required to be pursuant to university policy?

A They must be consistent with it.

Q In the past year, did Professor Goldstein submit to you any requests for the salaries of the personnel employed under him with reference to the grant?

A Yes, I believe he did.

Q Did you not deny some of those requests?

A Some were denied, some were modified, some were approved.

Q Did you not state to Professor Goldstein that those [1033] were not approved, modified in accordance with perimeters that the university set for increases—

A Yes, and at that time, there was also compliance on the Federal Wage Stabilization Act, which everybody was bound by.

Q You are an attorney, are you not?

A Not a practicing attorney.

Q Are you a member of the Bar?

A No.

Q You were familiar with the wage guidelines of the Economic Stabilization Act?

A Yes.

Q And you were familiar that there were numerous grounds for exception?

A There were grounds for exceptions, yes.

Q When did he make this request for salary increases, what year?

A You're trying to relate a series of requests as if they were one request at one time. I have now on my desk a request for Dr. Goldstein.

Q Has it occurred in the past that other faculty members submitted requests which you have likewise modified or rescinded or turned down because they were not in accordance with certain perimeters?

A Certainly, that's the function of central administration.

[1034] Q However, is it not true that the principal investigator will hire—will do the hiring of personnel who work solely on his or her grant?

A In essence, yes.

Q Is it not true that to the extent each such person takes part in the furtherance of the grant, that person is directly responsible to the principal investigator?

A The principal investigator is the supervisor.

* * * *

[1037] You said the principal investigator has the ultimate responsibility for the project. Is he not also the originator of the project?

[1038] A He may be.

Q Who else would be?

A Someone else may be.

Q For instance, who?

A It's not unusual for someone who conceived the proposal to be either so heavily involved in work or for other reasons, if somebody else submits the proposal to become the principal investigator.

Q Have you ever originated—

MR. SCHECTMAN: Withdrawn.

Q Is it not true that the faculty member who originates the proposal or the faculty member who will later assume a proposal from the idea of another, and from its inception and througout its furtherance, that

they are responsible for its performance and in fact, define its direction?

A They are responsible to the institution as well as to the granting agency.

Q They do in fact, define the direction of their own proposals?

A I don't know what you mean by define the direction.

Q I will ask some other questions in lieu of that.

To what extent will, or has the university modified proposals submitted by faculty?

A It happens.

[1039] Q Will it generally pertain to physical matters?

A It may pertain to physical matters. It may pertain to physical facilities, availability of physical facilities. It may refer to programmatic matters.

Q What do you mean by that?

A The dean or vice president—there's a grant committee, they could question the desirability of that proposal based upon the resources of the institution. That's a programmatic modification.

Q Once it's approved, it's the faculty member's responsibility pursuant to the proposal to further it?

A In general terms, yes.

Q Subsequent to its programmatic approval, the control by the university is primarily one of a fiscal nature, is it not?

A I can only answer as the vice president for business affairs, that answer is yes, my area is fiscal and fiscal matters, yes.

Q Now, you testified under direct examination that employees under a grant receive certain fringe benefits along with salary, among them, Social Security, insurance and so forth. Is it not true that there are research assistants who are paid no such salary and fringe benefits paid on the basis of a grant, a fellowship grant, with no withholding taxes?

[1040] A If they are employees in the sense of performing service for the grant, they should be employees

of that grant and Social Security and other taxes should be appropriately withheld.

* * * *

[1041] Q Does the university deduct from the grant funds it allots to the payment of salaries and fringe benefits for those personnel acting in furtherance of a grant, some sum of money representing participation in a pension fund?

A As you phrased it, I will answer no.

Q Does the university charge against a grant, any payment to pension funds?

A There again, as you phrased it, the answer is no. If you want me to clarify the issue, there's a composite fringe rate which is applied against grants.

Q And is that composite fringe rate, does it include a component representing payment toward a pension part of a grant fund?

A It could.

Q Does it?

A Yes.

Q Do all the employees under a grant belong to that pension fund?

A The sheer nature of a composite rate means it's an averaging factor of those who do and those who don't to arrive at a rate.

Q So, it's true that on some occasions that that [1042] averaging figure represents some payment toward a pension fund although that employee may not be a member of that fund?

A That is a distortion of what I said.

Q What did you say?

A It's a rate determined upon the basis of certain experience with regard to expenditures made for certain fringe benefit and the composite rate is determined by HEW auditors. This is not only acceptable to HEW, but it's preferable with respect to the accounting aspect also.

Q Do some principal investigators have secretaries employed under the grant?

A Yes.

Q And will those secretaries be union members?
A Conceivably.
Q Do any principal investigators take a principal part in collective bargaining with the union?
A I would say yes. Members of the faculty have served on the university negotiating committee. Whether all of them have always been, I can't say, but we have a cross section representation so no doubt over the years, principal investigators were, yes.
Q I ask you if you had any specific knowledge of any grant in which one faculty member does not in theory, [1043] does not nominally, but does in fact, as an actuality supervise another faculty member and I mean by that—go ahead and answer the question.
MR. KRAMER: I think the addition that you were adding is relevant. It calls for a conclusion of the witness. You're using a statutory term. If the witness said "Yes" we would be bound by his answer. We need a definition of the term before the witness answers. He's not a practicing lawyer and he's not a practicing labor lawyer.
Q I say supervise in terms of direct or control the activities of another faculty member relative to that grant.
A I can't cite a specific faculty grant at the present time, but I would say they do.

* * * *

REDIRECT EXAMINATION

Q (By Mr. Kramer) You say faculty members have secretaries?
A Yes.
Q Who directs them?
A The principal investigator.
Q Who has the authority to select the secretary in the first instance?
[1044] A If a new hire is to be made, it's the principal investigator.
Q That is so whether they are union or non union?
A Yes.

Q If a secretary comes in drunk, does the principal investigator have the right to reprimand that secretary?
A Yes.
Q Whether she's union or non union?
A Yes.
Q Who would she go to if she has a complaint?
A To the principal investigator.
Q And that is so whether it's union or non union?
A Yes.
Q There is no didactic value, is there, in the supervision of secretaries?
A No.
Q You testified that other faculty members, I think this was on your cross examination, have secretaries; is that correct?
A Yes.
Q Do they have the authority to direct the secretaries at the time they are using them?
A They certainly do.
Q Tell them what to do?
A And tell them when to do it and how to do it.
[1045] Q And dress them down if they don't do it properly?
A I would hope they don't have to, but they would if they had to.
Q I would assume if a secretary came in drunk, there would be the right to recommend termination?
A Yes.
Q Is it correct to state that the grants of the university are managed?
A Yes.
Q And they are grants to the university; right?
A Yes.
Q They are not grants to any particular faculty member?
A That's correct.
Q Who manages the grants? Who has the managerial function?
A The principal investigator.

Q You don't, do you?
A Not on a day to day operational basis.
Q Dr. Fishman doesn't?
A No.
Q The deans don't, do they?
A No.
Q Can you give us a feel for the amount of money that has been granted to the university each year for research purposes by these various agencies?
[1046] A I think we're talking about anywhere from —it varies, but I think we can say two and a half to three and a half million dollars per year, excluding the medical school, that would be a reasonable figure.
Q Would it be a correct statement to say that that money is managed by the principal investigators?
A Certainly.

* * * *

[1050] Q You were asked a number of questions by learned counsel concerning Professor Goldstein, recommendations he had made for salary increases for personnel working on his contract or as I would call it, his grant. Do you recall that?
A Yes.
Q You testified, as I recall, that some you accepted and some you modified and some you rejected.
A Correct.
Q Is it a fact, and if it isn't, please tell me, that the majority of Professor Goldstein's recommendations were accepted, if you can recall?
A I would say the majority either were accepted exactly as submitted, or modified as opposed to the number submitted.
Q You testified that people such as Professor Goldstein had the authority to establish salaries of people on their grants within broad perimeters. What did you mean by that?
A For some levels of employees, such as secretaries and clericals, where it's more clearly defined or the type of work is more easily or readily able to be defined, we have minimum salaries and annual amounts of increases

[1051] such as working conditions and fringe benefits. When we go into research associates whose institutional standard of measurement is so difficult, the latitude that is available is considerable.
Q There is no personnel department to look into that program, is there?
A No.
Q Is the dean involved in that?
A Not directly, no.
Q The principal investigator must make those judgments?
A To a great degree.
Q Are those judgments generally accepted?
A Unless they are quite unusual or quite irregular, by and large—in the areas of lab work, or things of that nature, the principal investigator's discretion is followed.

* * * *

[1070] MARTIN MILLER, first having been duly sworn, testified as follows:

THE HEARING OFFICER: Give your name and address to the [1071] Reporter.
THE WITNESS: Martin Miller, 24 Woodmill Road, Chappaqua, New York.

DIRECT EXAMINATION

BY MR. SCHECTMAN:

Q Do you hold a position with the Faculty Association of the Ferkauf Graduate School?
A Yes.
Q What is that position?
A I am president.

* * * *

[1088] Q So in total, how long have you been a member of the faculty of the Ferkauf Graduate School?
A Ten years.
Q Are you a tenured member?
A Yes.

Q In the course of your association as a faculty member at the Ferkauf Graduate School, have you been on any of the committees of the Ferkauf Graduate School?

A Yes, I have.

Q Will you tell us some of those committees.

A The welfare committee, the committee of faculty welfare, I served two stints, one when I first came to Ferkauf in 1964, and then more recently since 1972.

Then the curriculum committee, the standards committee. For a while, as a member of an ad hoc committee on revision [1089] of bylaws.

I am currently a member of the university-wide committee on the new law school, the development of the new law school.

Q Did you indicate in your testimony that you were a member of the standards committee?

A I have been. Last year I was a member.

* * * *

[1093] Q Have there been discussions among the faculty in which you have taken part at the Ferkauf Graduate School, I mean the Ferkauf Graduate School faculty, with particular relevance to the University policies in consideration of the moving of the Ferkauf Graduate School to the main campus?

A Yes.

Q Likewise, have there been formal faculty discussions relative to the role of faculty members of Yeshiva College taking part in dissertation committees at Ferkauf.

A Yes, Yeshiva College and other colleges, and Stern College as well, there have been such discussions.

* * * *

[1099] THE HEARING OFFICER: I assumed that was the purpose of it.

Other than faculty, strictly speaking, your duties require you to have meetings from time to time with other arms of the University, the executive, administrative arm of the University?

THE WITNESS: Well, that will be more likely the case when I become chairman of the department of special education in September.

There are other meetings I have attended. I did, for example, attend a meeting where Dr. School and others presented a briefing on the status of the budget. This was in the spring of 1973. And that was a University-wide meeting.

I will be also involved in the University-wide committee on the law school when that committee convenes.

* * * *

[1107] Q Can you tell us at this time what role you play in the admissions of students at Ferkauf?

A Yes. Well, the department of special education, you know, is largely concerned with the training of professional personnel.

Our admission inputs are very deliberate. When an [1108] applicant applies, the applicant applies to the Ferkauf admissions office. We will subsequently review, do a preliminary review of all credentials with particular regard to professional experience and training prior to the application.

Q You say we will review, what do you mean by we?

A The department will review.

* * * *

[1109] A All doctorial candidates are reviewed, for as long as I have been at Ferkauf, are reviewed by a committee of a minimum of three persons, and I have always been on that committee.

So that I have input on every doctorial candidate, potential candidate, in that sense.

Secondly, I frequently review aplications of applicants for Master's training. I would say about 50% of those applications.

Q In your experience relative to the admissions of students to Ferkauf, do any non-faculty members at Ferkauf play any role in choosing those students who would be admitted?

A Non-faculty members?

Q At Ferkauf.

A Yes, in the sense that the admissions office does a preliminary screening of the application form. No, they [1110] don't do that much screening. Relative to the guidelines that are stipulated by our department and the standards committee of the faculty, as well as the dean of course.

* * * *

Q Does the final decision as to admissions rest in the process you described in your prior testimony?

* * * *

A As I understand the question, the final disposition of an application would depend on the recommendation of the department to which the person has applied. In that respect, the final decision is essentially in the hands of the department.

The formal processing will be expedited by the admissions officer.

Q Are you familiar with the role that the faculty members of the Ferkauf Graduate School play in the hiring of other [1111] academic personnel, I mean faculty, at Ferkauf?

A Yes.

Q Can you describe that role?

A The role will be—typically the initiation of a request for a new faculty person will come from the department concerned.

I think probably always the potential candidacy of certain persons for faculty appointments will be drawn, the names of persons, will be typically drawn from the department.

Initial inquiry will be conducted by the department. The applications or the type of potential faculty will be reviewed by faculty of the department, as well as, of course, the dean.

And given that first hurdle is past, then the potential faculty member will be called in for meetings, for interviews by the department and also will meet the dean and other administrators in the Universtiy sometimes.

That is, the candidates will typically meet the dean, and, I assume, occasionaly, meet other members of the Association.

MR. KRAMER: I think the record will speak for itself as to what the witness means.

Q Are you familiar with the role of the faculty in matters of faculty promotion at the Ferkauf Graduate School?

[1112] A Yes.

Q Will you describe that role?

A Yes, there is a standing committee of the Ferkauf faculty government that has established guidelines. That committee meets regularly, I believe, with the dean sitting as its ex officio on the committee.

The guidelines are rather specific with respect to what the criteria ought to be for promotion.

The department, a given department, through its chair person will ordinarily make a recommendation for consideration of a person for promotion. And that will then be reviewed by the standing committee on promotions and the dean for voting and subsequent recommendation.

MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 12A and 12B a document entitled under the caption Ferkauf Graduate School of Humanities and Social Sciences, and beneath that Yeshiva University, and beneath that criteria and procedures for promotion, a four-page document to be marked as Petitioner's Exhibit 12A.

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 12A for identification.)

MR. SCHECTMAN: As 12B, a two-page document entitled guidelines for promotion with the name J. D. Gittler to the right.

(Whereupon, the document above referred to was marked [1113] as Petitioner's Exhibit 12B for identification.)

Q Professor Miller, in your immediately prior testimony, you testified as to certain criteria, guidelines for promotion.

I show you Petitioner's Exhibit 12A marked for identification. Are those the criteria and guidelines to which you referred?

A Yes, I believe so.

Q To the best of your knowledge, are those currently in effect?

A Yes, I believe they are.

Q And with respect to Petitioner's Exhibit 12B, marked for identification, I indicate on the top line the name J. D. Gittler over the date February, 1970.

Can you identify that name?

A Joseph D. Gittler is the dean of the Ferkauf Graduate School of Humanities and Social Sciences.

Q He was the dean in February, 1970?

A Yes.

Q Is he currently the dean?

A Yes, he is.

MR. SCHECTMAN: I now offer the exhibit into evidence.

MR. KRAMER: I would like to look at it.

I have no objection.

THE HEARING OFFICER: Petitioner's Exhibits 12A and [1114] 12B are received in evidence.

(Whereupon, Petitioner's Exhibits 12A and 12B were received in evidence.)

Q Professor Miller, are you familiar with the faculty's role in matters of tenure of faculty at the Ferkauf Graduate School?

A Yes.

Q Could you describe that role to us?

A It is rather similar to the promotions procedures in the sense that there are solicitations to departments for recommendations for prospective tenure from the dean.

The dean, Dean Gittler has, at least in the past, had a special committee or council, I don't really recall the

formal title, but I served on that committee during one year, I think I neglected to mention that earlier, which discussed procedures and makes recommendations on review process, and subsequently after review of a great variety of materials all tenured faculty at the school votes on the admission of someone to tenure.

Q When you say on the admission of someone to tenure, would that someone be—

MR. SCHECTMAN: Strike that.

Q Tell us what you mean by someone.

A A member of the Ferkauf faculty who has been recommended for tenure.

[1115] Q Do you have any knowledge of whether any such recommendations have not been approved?

A To the best of my knowledge, recommendations from Ferkauf for final approval have not been denied.

Q Now, is there then a formal committee to deal with the matter of tenure?

A Is there a formal committee?

Q Yes.

A The committee, I believe, was at the dean's pleasure and was constituted by him. I don't believe there is a formal committee in the faculty government.

However, the faculty welfare committee does have in its pervue the matter of reviewing policy with respect to tenure.

Q Now, is there a formal standing committee that deals with matters of promotion?

A There is a formal standing committee to that effect.

Q What other formal standing committees are operative at Ferkauf?

A There is a considerable number. There is the steering committee, which is a kind of administrative committee on committees, I suppose one might say.

There is a library committee which is properly concerned with matters of the library.

There is a research committee which in the past had [1116] a budget and was able to provide seeding money for new projects.

There is a curriculum committee which is concerned with the review of all faculty, all academic programming at Ferkauf.

The standards committee which is concerned with academic standards, admissions policies, requirements for degress and the like. And also serves as a kind of review panel for students, and I believe in the bylaws it is not only students, but also faculty and administration of the school with respect to academic questions.

Q Now,—

A I think that about exhausts it.

Q With particular respect to the curriculum committee, you testified that is concerned with the academic program at the Ferkauf Graduate program.

A Yes.

Q Is it concerned with the academic programs at any other parts of the University?

A No.

Q What action is required before a new academic program is accepted and put into effect?

A The committee reviews the input of various departments. Then makes its recommendations to the whole faculty sitting as a committee of the whole, I guess, in the faculty govern- [1117] ment meetings.

Then that whole faculty must approve a program change.

Q When you say whole faculty, what do you mean?

A I mean all those members of the faculty who are voting, full and voting members of the faculty government, Ferkauf Graduate School.

Q And solely at the Ferkauf Graduate School?

* * * *

[1120] Q Is the welfare committee at the Ferkauf Graduate School a standing committee?

A Yes.

Q And briefly, what are its responsibilities and role?

A Its primary responsibilities are to deal with respect to matters of faculty welfare such as questions of salary and working factors, conditions such as tenure policy,

sabbatical leave, policy of leave of absence. Matters of [1121] that nature.

Q What has been your role on the welfare committee?

A For the last two years, I have been chair person of that committee.

Q Are you aware of the salary schedule for the Ferkauf faculty?

A Yes.

Q Is that salary schedule applicable to the faculty of any other schools of the University?

A No.

Q Do you know who took part in the formulation of that salary scale?

A The faculty welfare committee together with the dean, and I am not certain, but the then vice president for financial affairs, I believe, was also involved, Mr. Levine.

Q Did the welfare committee on behalf of the faculty at Ferkauf undertake to review salaries and other working conditions at the Ferkauf Graduate School for the academic year of 1973-1974?

A Yes.

Q When did that effort commence?

A It began in the early part of 1973, I think sometime in February at a faculty welfare committee meeting.

MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 13, the minutes of the meeting [1122] of faculty welfare committee February 5, 1973.

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 13 for identification.)

Q I show you Petitioner's Exhibit 13 marked for identification. Can you identify that document?

A Yes.

Q Does it properly set forth the items of discussion at the faculty welfare committee on February 5, 1973?

A Yes.

Q And you were present at that meeting?

A Yes.

Q And at that meeting did the welfare committee undertake consideration of future matters of working conditions, salary?

A Yes, we did.

* * * *

[1132] Q Professor Miller, subsequent to the faculty welfare committee meeting of February 5th, did the welfare committee develop a proposal or prospective salary benefits for the faculty at Ferkauf?

A Yes.

[1133] Q Did the entire faculty at Ferkauf pass on that proposal?

A Yes, it did.

Q Did you forward that proposal with a covering letter to any university committee?

A Yes, I did.

Q To what committee was that?

A The budget committee. Each member of the budget committee.

MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 14A, B, and C letters addressed to Dean Jacob Rabinowitz, Dr. Sheldon Socol and Professor Morris Silverman.

(Whereupon, the documents above referred to were marked as Petitioner's Exhibits 14A, B and C for identification.)

Q I show you Petitioner's Exhibit 14A, B and C. Did you write these letters?

A Yes, I did.

Q In what capacity did you write them?

A I wrote them as chair person of the faculty welfare committee of Ferkauf Graduate School.

Q Do you know if these letters were received?

A I believe they were.

MR. SCHECTMAN: I offer these letters into evidence.

[1134] MR. KRAMER: No objection.

THE HEARING OFFICER: Petitioner's Exhibit—

MR. KRAMER: Except that we don't have the attachments to these letters.

MR. SCHECTMAN: We are putting them in now.

THE HEARING OFFICER: Petitioner's Exhibits 14A, B and C are received in evidence.

(Whereupon, Petitioner's Exhibits 14A, B and C were received in evidence.)

MR. SCHECTMAN: I now offer to be marked for identification as Petitioner's Exhibit 15, a document dated April, 1973, entitled a proposal for faculty salaries, faculty welfare committee, Ferfauk Graduate School, Yeshiva University.

(Whereup, the document above referred to was marked as Petitioner's Exhibit 15 for identification.)

Q Professor Miller, I show you Petitioner's Exhibit 15 marked for identification. Is this the proposal for faculty salaries prepared by the Ferkauf welfare committee?

A Yes, it is.

Q And was that proposal presented to the entire faculty at the Ferkauf Graduate School?

A Yes, it was.

Q And with what intention was that proposal presented to the faculty by the welfare committee?

[1135] A It was presented as a draft for their consideration with the indication that it would be submitted to the University budget committee.

Q And what action did the faculty at the Ferkauf Graduate School take on that proposal?

A Well, they approved it unanimously.

Q Do you know at what date they approved it?

A On April 9th.

Q Was this proposal submitted with the letters that have been introduced into evidence as Petitioner's Exhibits 14A, B and C?

A This proposal was sent on that date with those cover letters, under those cover letters. On that same date.

MR. SCHECTMAN: We offer the proposal into evidence.

MR. KRAMER: No objection.

THE HEARING OFFICER: There being no objection, Petitioner's Exhibit 15 is received in evidence.

(Whereupon, Petitioner's Exhibit 15 was received into evidence.)

Q Now, upon your forwarding of that proposal to the budget committee of the University, did you receive a response?

A No, there were telephone conversations with Dean Rabinowitz and Dr. Socol and Dean Gittler about a meeting that was to take place in response to that letter.

[1136] Q Did, in fact, a meeting take place to discuss the proposal set forth in Petitioner's Exhibit 15?

A Yes.

Q Approximately when was that meeting?

A It was in early May.

Q Can you tell us who was in attendance?

A Yes, there were Dean Rabinowitz, Dr. Socol, Dean Gittler, myself, Dr. Norman Gordon, Dr. Nathan Stillman.

Q In what capacity were Dr. Gordon and Dr. Stillman present?

A They were members of the welfare committee.

Q Did the welfare committee at that meeting submit and discuss the proposals set forth in Petitioner's Exhibit 15?

A Yes.

Q What was the outcome of that meeting?

A Well, mainly the meeting—the main substance of that meeting was concerned with the problem of the budget for the University. There was no decision made at that meeting with respect to the proposal, but there was subsequent meetings. Nothing scheduled.

Q Did you receive at any subsequent time a request from Dean Gittler to meet again to discuss—to meet again with the welfare committee to discuss the budget and salary proposals for the Ferkauf faculty?

A Yes.

[1137] MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 16, a memorandum on the stationery of Ferkauf Graduate School of Humanities and Social Sciences to Professor Martin Miller from Dr. J. D. Gittler with a handwritten indication, a handwritten entry appearing to be "Joe K."

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 16 for identification.)

MR. KRAMER: So the characterization of the letter is correct, I read it Ferkauf Graduate School of Humanities and Social Sciences Yeshiva University.

MR. SCHECTMAN: That is correct.

MR. KRAMER: The reader will see for himself.

Q I show you Petitioner's Exhibit 16 marked for identification. Did you receive that memorandum, Professor Miller?

A Yes.

Q And at the point that—approximately when did you receive that memorandum?

* * * *

[1155] MR. SCHECTMAN: I offer to be marked for identification a letter dated September 26, 1973, addressed to President Bacon on the stationery of the Yeshiva University Graduate Faculty Association.

Mark it Petitioner's Exhibit 17 for identification.

(Whereupon, the document above referred to was marked Petitioner's Exhibit 17 for identification.)

Q Professor Miller, I show you Petitioner's Exhibit 17. Did you sign and send this letter, also signed by Professor Behrends in its original, to Professor Bacon?

[1156] A Yes.

MR. SCHECTMAN: I offer Petitioner's Exhibit 17 marked for identification into evidence.

THE HEARING OFFICER: I gather there is no objection?

MR. KRAMER: I have no objection.

THE HEARING OFFICER: Petitioner's Exhibit 17 marked for identification will be received in evidence.

(Whereupon, Petitioner's Exhibit 17 was received in evidence.)

Q Did you receive a response from any University official from that letter?
A Yes.
Q From whom did you receive that response?
A Dean Gittler.
MR. SCHECTMAN: I offer to be marked for identification a letter dated October 24, 1973, addressed to Dr. Martin Miller, and signed Joe over the typewritten name Joseph P. Gittler.
I offer it as Petitioner's Exhibit 18 for identification.

(Whereupon, the letter above referred to was marked as Petitioner's Exhibit 18 for identification.)

Q I show you Petitioner's Exhibit 18, is this the response you indicated in response to my immediately prior question that you received from Dean Gittler?
[1157] A Yes.
MR. SCHECTMAN: I move the admission of Petitioner's Exhibit 18 for identification.
MR. KRAMER: I have no objection.
THE HEARING OFFICER: Petitioner's Exhibit 18 is received in evidence.

(Whereupon, Petitioner's Exhibit 18 is received into evidence.)

Q Now, in the letter of October 24th, Dean Gittler asks again that the members of the welfare committee meet with him and the University budget committee.
Did any such subsequent meeting occur?
A No, it did not.
Q Did the welfare committee of the Ferkauf Graduate School pass any resolution relevant to such a meeting?
A Yes, it did. To the principal of such a meeting, yes.
MR. SCHECTMAN: I offer to be marked for identification as Petitioner's Exhibit 19 a document entitled

minutes of the meeting of October 15, 1973, under the faculty welfare committee.

(Whereupon, the document above referred to was marked as Petitioner's Exhibit 19 for identification.)

Q Professor Miller, did the faculty welfare committee meet on October 15, 1973?
A Yes, it did.
[1158] Q And you were present at that meeting?
A Yes.
Q Did the welfare committee agree on a certain statement?
A Yes, it did.
Q Does Petitioner's Exhibit 19 for identification properly set forth that statement?
A Yes.
Q Was that statement made known to the rest of the faculty at the Ferkauf Graduate School?
A Yes, in a subsequent general faculty meeting.

* * * *

[1185] Q (By Mr. Schectman) Professor Miller, how are department chairmen chosen at the Ferkauf Graduate School?
A They are elected by the respective departments.
Q Are you a department chairman?
A Yes, I am.
Q Of what department?
A Department of Special Education.
Q That department is?
A That department is—
Q Where is that department?
A At Ferkauf Graduate School.
Q When did you become a department chairman?
A Just this semester.
Q When were you elected?
[1186] A It was a year ago last May, in preparation for this semester.
MR. SCHECTMAN: Off the record for a moment.
HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Schectman) Are you familiar with the role and responsibilities of department chairmen?

A Yes, I am.

Q What is their primary role?

A Primarily department chairmen, or chairpersons, are conduits between the dean and the membership of the department that they chair.

They have administrative functions were in the department, with respect—given the advice and consent of the faculty that they lead.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Schectman) Do departmental chairmen have secretaries?

A No. Departments have secretaries or in our case and administrative assistant and a typist.

Q Are that person's services then shared by the [1187] department?

A Yes.

Q Do you hire or fire the administrative assistants or secretary-typists?

A No. As a matter of fact—

* * * *

Q When you assumed your chairmanship this fall, were any new staff hired?

[1188] A No new faculty were hired, and no new clerical persons were hired.

Q Who is the administrative assistant working for the department now?

A Her name is Mrs. Beatrice Schwartz.

Q Was Mrs. Schwartz working for the department last year?

A Oh, yes, quite a few years.

Q What is the role of the department chairman in appointment of faculty?

A It is essentially an advisory role. Again, the department chairman speaks for the faculty of the depart-

ment, in an advisory sense to the administration with respect to hiring.

Q What is the role of the department chairman with respect to the promotion of faculty?

A It is similarly advisory. The chairman will sound out the sentiments of other members of the faculty with respect to a recommendation from the department on a promotion.

Q And what is the role of the department chairman in the matter of tenure?

A It is analogous to the problem of promotion.

Q Does a department chairman recommend salary increases?

[1189] A No. We have a salary scale, as I have heard testimony to here, and so there are no—there is no such role for the department chairman.

Q In the course of your employment at Yeshiva University, have you been a principal investigator with respect to any grants?

A Yes, I have.

Q Over what period of time have you been a principal investigator?

A Well, I would have to say a majority of my tenure at Yeshiva has been involved—I have been involved as principal investigator for one or two grants. About eight of the ten years I have been there, I suppose.

Q So then are you not familiar with the—strike that.

Can you describe to us the process by which you formulate a grant proposal?

A Yes. Essentially—

Q Let me just add, I am referring now to particularly in your capacity as a principal investigator.

A Yes. That will involve a good deal of consideration as to how to prepare a meaningful research design, a viable budget that would be in line with the expectations of the funding agency.

It would require library research, and a [1190] good deal of private contemptlation.

* * * *

Q Would you just outline the number of grants where you have acted as a principal investigator.

MR. KRAMER: At Yeshiva.

A At Yeshiva. I have directed, been principal investigator on one research grant and two training grants, one currently.

Q Okay.

A One of those two training grants is current.

Q Is your prior testimony with reference to your experience on those three grants?

A Yes, it was.

* * * *

[1191] Q To facilitate the consideration by the Hearing Examiner and the Board, could you clarify for us, Professor Miller, the distinctions between a training grant and a research grant?

A Yes. If the terms don't speak for themselves, a research grant is concerned with the collection of information, through scientific process, while a training grant is fundamentally concerned with the development of, in our case, professional personnel support, typically in the form of stipends, fellowships, assistantships, traineeships, depending on what they happen to be called at a particular point in time.

So the emphasis is quite different. The [1192] training grant is wholly in keeping with the typical academic enterprise, while the research grant attempts to involve separate preoccupations.

Q Must you file grant applications for both types of grants?

A Yes.

Q And domestic grant applications have to be renewed periodically?

A Yes, they do.

Q Usually how often?

A It will vary with the particular grant. Training grants typically require annual renewal, at least annual reconfirmation.

Currently, for example, our department training grant is a three-year grant, subject to the satisfaction of the

funding agency during that period, but prior to this period they were submitted annually.

Q Is your prior testimony with respect to the preparation of grant proposals applicable to both kinds of grants?

A Yes.

Q Now, you did testify with regard to your input to those grant proposals.

Could you now describe the input of the university, if any, into such grant proposals?

A Yes.

University administration will review the [1193] proposal, grant proposal, mostly in terms of the budget and its correspondence to the university policy. It is a minimal role.

* * * *

[1194] Q (By Mr. Schectman) Were any personnel hired under any of the grants to which you have referred?

A Yes.

Q Would you describe personnel that were hired under those grants?

A Yes. In my research grant a variety of assistants were hired. In the training grants, staff, support staff, were hired with respect to—and are hired, with respect to the operation of the training program.

Q Would any of those personnel be eligible for membership in the faculty graduate association?

A No.

* * * *

Q Were those personnel solely and exclusively employed in the furtherance of your grant?

A Yes, they were.

[1195] Q Were you the sole supervisor of those personnel?

A Yes, I was.

Q Did your grant proposal include any reference to the salaries of those personnel?

A Yes; typically did.

Q And to what extent were their salaries paid out of the grant funds?

A Exclusively.

Q Do you have any knowledge—strike that.

Did your grant proposals include any allotment for any payment of your salary?

A Yes, it did.

Q Was there any usual correlation between that allotment and your grant—and your work on the grant?

A Yes. There was a reasonable course. If 25 percent of my time were stipulated by a grant, for example, I would—my work would be proportionately distributed in terms of that allotment.

Q Was your definition of your status as a full-time faculty member accordingly adjusted with respect to your grant work?

A Yes, it was.

Q Did the granting agency issue any rules, regulations or directive, with respect to the furtherance of administration of the grant?

A Yes.

[1196] Q And did those directives make any reference to the personnel policy by which personnel you employed under the grant were to be employed?

A Yes. It was to be consistent with the policy of the university, or the grantee.

Q Is there a requisition process for the distribution of funds in connection with the grant?

A Yes, there is a process.

Q Could you describe that process?

A Yes. If funds are to be disbursed on behalf of a given grant, a request is passed on to the person responsible for processing such requests from the principal investigator of the project.

Q Okay.

A I should add that these are always consistent with the grant, as provided for in the proposal that has been accepted in the grant award.

Q Is it not then the principal investigator who initiates those requisitions?

A Yes.

Q And whom is the person to which they are directed?

A Ultimately to the—the grants administration component of the university. More directly in our school, to Mrs. Sedlach, who processes such requisitions.

[1197] Q Are any funds from the granting agency paid directly to you?

A No.

Q And the requisition process to which you referred, is that effective for other principal investigators as well?

A Yes.

Q What were the granting agencies that made the grants which you have acted as principal investigator on?

A There were two funding agencies that I have been involved with. National Institute of Mental Health, and the United States Office of Education. Both components of the Department of Health, Education, and Welfare.

Q Do you know if those granting agencies administer or issue grants to other colleges and universities as well?

A Yes, they do.

• • • •

Q Are you familiar with other grants that have been [1198] in effect and are in effect at the Ferkauf Graduate School?

A Yes, I am.

Q Are you familiar with the principal investigators?

A Yes, I am.

Q And have you had occasion to speak to them about their grants?

A Frequently.

Q Would you say you know all the principal investigators at the Ferkauf Graduate School?

A I would say I know him. I cannot say that I know all. Perhaps it turns out that way.

Q Now, with respect to your research grant, can you tell us what the final step or—in the proposal was under the grant?

A The final disposition of the grant is a final report submitted to the funding agency.

• • • •

[2006] HEARING OFFICER: Let's go back on the record.

Mr. Kramer, will you now present the employer's position as to the unit involved?

MR. KRAMER: Mr. Chaiet, as you may know, this is the second time this year that we, Yeshiva University, have been brought here to this Board for the determination of a question concerning representation involving our faculty.

In the latter part of May, 1974, in Case No. 2-RC-16517-18, the predecessors of the petitioner herein, the faculty association of the Belfer Graduate School of Science, by its president, a Professor Behrens, and the faculty association of the Ferkauf Graduate School of Social [2007] Sciences and Humanities, by its president, Professor Miller Etchfield (phonetically spelled) separate petitions seeking to represent separate units limited to the faculties of each of those two schools or in the alternative during the course of the hearing advised the Regional Director through the Hearing Officer that they would accept a unit that included all the graduate faculty of Yeshiva University, excluding the medical school or in the alternative would participate in an election that includes all faculty at Yeshiva University both graduate and undergraduate, once again excluding the medical school.

During that case, Mr. Hearing Officer, the University took the position, as it does here, that all members of the faculty are either supervisors or managerial employees under the Act.

I so stated in my opening statement.

Further, we argued there that if some faculty at our school is to be found eligible to participate in a Board-conducted election, and indeed they should not, because of their managerial and supervisory status, the appropriate unit should certainly include all non-supervisory and/or non-managerial non-medical schoolschool faculty at the university carrying a full-time load.

Later testimony was given to define that term, full-time load.

[2008] In this regard we maintained in the prior case, as we shall maintain here, that all divisional and departmental chairman and all senior faculty who act as de facto department heads, should be excluded from the unit as supervisors and/or managerial employees, and that in any all principal investigators should be excluded from the unit on account of their supervisory and/or managerial standing.

It was also the University's position in the first case, as it is here, that all associate and assistant deans should be excluded for the same reason.

Finally, Mr. Hearing Officer, we argued in the prior proceeding as we do here, that all personnel who have been notified by the University prior to the direction of election that they will not be teaching at school next year should not be permitted to vote and that those persons who have resigned their employment effective next year either prior to or after the direction of election should not be permitted to vote, Mr. Chaiet, in Case No. 2-RC-16517-18 there were eight days of hearings, a record of some 1216 pages was made beginning on June 10, 1974, and the Hearing Officer received 82 University exhibits including the catalogs of all of our schools, and 20 petitioner's exhibits.

On October 22, 1974, petitioners withdrew [2009] their petition in Case 2-RC-16517-18, without prejudice to its reinstitution, this despite the fact that a simple amendment of the petition could have and indeed would have extended it to a university-wide unit which was in any event an alternative unit position of the petitioners therein.

On October 30, 1974, the petition in this case was filed.

It was refiled by the Yeshiva University Faculty Association which, as we see it, is an expanded version of the prior petitioners who have restyled themselves under that appelation and filed the petition in this case seeking an overall university-wide unit.

Indeed the signature on the petition in this case is the same Dr. Behrens who signed the petition—one of the petitions in the prior case.

Mr. Hearing Officer, while on its face the proceeding—this proceeding is separate from its predecessor, which was only closed out by Board order, by Regional Director's Order seven or eight days before the petition was filed here, on its face it is separate from its predecessor.

It is for all intents and purposes a continuation of that prior proceeding.

The record of that proceeding contained contains a detailed analysis of how the university is [2011] governed and managed and substantial evidence that establishes that principal investigators are managerial and/or supervisory employees.

Mr. Chaiet, because our—and I mean the University's positions, particularly on the supervisory and managerial issues—remain the same, because counsel in both cases are the same, because the controlling parties are for every real purpose one and the same, and because the record in the prior case is of recent origin and squarely pertinent with respect to all the issues that we will raise here, we shall ask you, as the Hearing Officer, to incorporate that record into this proceeding in its entirety, as if fully made herein by introducing it as a Board exhibit.

* * * *

[2013] Mr. Chaiet, we fully realize that the Board has decided many cases involving university faculties and the conceptional questions we are raising are not brand new.

Indeed they are not, although our fact pattern, we think, is quite singular.

What we ask here is an opportunity to develop a full and complete record to present to the Regional Director, to the Board and, if necessary beyond.

What really is at issue here, Mr. Chaiet, is this very vital—is a very vital and meaningful question to this University:

We seek to obtain a correct resolution of this vital question, namely, who manages the functions of and [2014] supervises the operations of our institution of higher education within the meaning of those terms as

used in the National Labor Relations Act and by the Board and by the courts.

* * * *

[2023] MR. KRAMER: Mr. Hearing Officer, I will not be long.

* * * *

[2024] Secondly, the question of managerial status, the University is not saying here that the faculty and the faculty alone managed the University and let the record be clear on that subject because implicit in Mr. Schectman's remarks was that implication.

What we are saying, however, it is that the faculty of our school share so significantly in the managerial process of our school as to be managerial employees; that is the kind of issue the Board has to decide here.

Clearly, there is a president and Board of Trustees, and vice president of academic affairs and a vice president of finance.

What we are going to prove here is the great sharing that goes on here.

* * * *

[2031] MR. KRAMER: Mr. Hearing Officer, the University renews its motion and asks for the full incorporation of this record, the record made in the prior case, all the exhibits, both the employer exhibits and the petitioner exhibits, and the Board exhibits, as if that record had been fully made herein in this non-adversary proceeding, with the right of counsel to correct that record or supplement that record, as he sees fit.

All those witnesses testified under oath.

[2032] All of those witnesses, as I see it, now, are in this room, I believe, except for Professor Miller, who I understand is teaching but is available and will be subpoenaed by the University, so that he will be here, if that is necessary, later on, if he is not produced by counsel for the other side.

The fact of the matter is everybody—everybody here knows that that record was taken and knows what is in that record, knows it applies to all the issues here, which indeed it does, and it should be admitted.

Otherwise it is to make a mockery out of the Board's procedures and processes which is actually what it is being attempted to be done here.

* * * *

[2041] HEARING OFFICER: Let us go back on the record.

I am going to deny Mr. Schectman's motion, grant Mr. Kramer's motion, and for convenience sake the exhibit—the transcript will be marked as Board Exhibits 2-A through I, "A" being the first volume, the first day of hearing; "B" being the second day of hearing, through until "I", which is the last day of hearing.

* * * *

[2042] For convenience sake also, I would like to have it noted that any exhibits offered into evidence in this hearing will be marked starting with the number, 100, so as not to confuse them with the exhibits that will be part of the prior exhibits.

* * * *

[2058] DAVID MIRSKY

being first duly sworn by the Hearing Officer, was examined and testified as follows:

HEARING OFFICER: Please give the reporter your name.

THE WITNESS: My name is David Mirsky, M-i-r-s-k-y.

[2059] DIRECT EXAMINATION

Q (By Mr. Kramer) Dean Mirsky, by whom are you employed?

A By Yeshiva University.

MR. KRAMER: Can we go off the record for a minute?

HEARING OFFICER: Yes.

Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Q (By Mr. Kramer) In what capacity?

A I am the Dean of Stern College for Women.

Q How long have you been dean of Stern College for Women?

A Since September of 1968.

Q And how long have you been employed by the University, Dean?

A Since 1948.

Q Are you a member of the faculty?

A Yes, I am.

Q And what title do you hold?

A Professor of English.

Q Where is your base appointment?

A At the moment it is at Stern College for Women, sir.

[2060] Q Dean, have you actually taught at Yeshiva University?

A Yes, I have.

Q Would you tell us about that, please?

A I taught at what is now called the Erna Michael College for Hebrauc Studies.

At the time that I taught there it was called the Teachers' Institute for Men. I taught at Yeshiva College. I taught at Stern College. And I taught at Ferkauf Graduate School.

Q When was the last time that you taught, as best as you can recall?

A I taught last fall as a result of an unfortunate incident, the demise of a faculty member and previously I taught regular courses, about two—two and a half years ago.

Q What did you teach last fall?

A I taught a course in Milton and The 17th Century.

Q Where did you teach that?

A Stern College for Women.

Q Where did you teach two and a half years ago, Dean?

A At Stern College for Women.

Q What did you teach?
A I taught a history of the Novel and Seminar and Joyce.

* * * *

[2065] Q And what is a contact hour?
A Generally the contact hour are the hours that the instructor spends in contact with the student, actual instructions within the classroom or in certain courses, conference with the student where that is a regular part of the course.
Q Would you tell us what credit hour means?
A A credit hour are the number of credits that are given to a student upon successful completion of a course towards meeting the basic residence requirement for a degree.

* * * *

[2076] Q Now, Dean Mirsky, what are your responsibilities as the Dean of Stern College for Women?
A I am to serve as the educational leader of the college and report to the president through the [2077] vice president for academic affairs on how the college is conducting itself.
Q You say as to how the college is conducting itself.
Is there in fact a faculty organization at Stern College for Women?
A Yes. The faculty is organized as a faculty.
Q And is there a thing called the faculty organization or a body called the faculty organization?
A Yes.
MR. KRAMER: Here is 102; mark that, please.

(Thereupon, Employer's Exhibit 102 was marked for identification.)

(Thereupon, Employer's Exhibit 101 previously marked for identification, received in evidence.)

MR. KRAMER: I now offer Employer's Exhibit 101 in evidence.
HEARING OFFICER: Any objection, Mr. Shectman?
MR. SHECTMAN: No objection.

HEARING OFFICER: Received.
[2078] HEARING OFFICER: Any objection, Mr. Shectman?
MR. SHECTMAN: No objection.
HEARING OFFICER: Received.

(Thereupon, Employer's Exhibit 102 previously marked for identification, received in evidence.)

Q (By Mr. Kramer) I have here Dean Mirsky, a document entitled, "Stern College for Women, Yeshiva University, Faculty Organization Interim Document I."
Are you familiar with that document, Dean?
A Yes, I am.
Q And it is marked as Employer's Exhibit 102, for identification, is it not?
A Yes, it is.
Q To your knowledge, Dean Mirsky, was this document approved by the faculty of your school?
A Yes, it was.
Q And has this document been distributed to the faculty of your school?
A Yes.
Q Dean Mirsky, are faculty meetings in fact held at Stern College for Women?
[2079] A Yes, in accordance with the requirements of the document.
Q Approximately how many times each academic year do these meetings take place?
A We meet a minimum of four times each academic year, two in each semester and then as business requires or at the request of faculty we can have additional meetings—either additional regular meetings or additional special meetings.
MR. SHECTMAN: Can we have a clarification here in reference to the faculty since we are talking about full-time and part-time?
MR. KRAMER: I am going to get that right in my next set of questions, Mr. Shectman.
I am glad you raised that point.

Q (By Mr. Kramer) Now, Dean Mirsky, referring to this document and more particularly to item 4(b) on page 1 of this document, are all members of the faculty in fact invited to faculty meetings, and are they in fact permitted to participate freely in deliberations, Dean?

A Yes, they are.

Q And is that so whether they are full-time faculty members or part-time faculty members?

A Yes; that is so.

[2080] Q And in your experience, Dean Mirsky, do part-time faculty members actually participate in these meetings?

A Yes.

Q And you have seen them do so?

A Yes.

Q Now, let us turn to item 4(c).

A Yes.

Q Is it a fact, Dean Mirsky, that part-time faculty members who have been at the college three or more consecutive years and who teach three or more hours are entitled to vote in faculty meetings?

A Yes, they are.

Q And they are entitled to participate regardless of their amount of service; is that correct?

A Yes.

* * * *

[2086] Q Isn't it a fact, Dean Mirsky, that Employer's Exhibit 102, 103 and 104 taken together represent the basic documents underlying the government—governance structure of the faculty at Stern College for Women?

A Yes, that is true.

* * * *

[2091] Q (By Mr. Kramer) With respect, Dean Mirsky, to the committees listed in Employer's Exhibit 102, which is interim document No. 1, have those committees in fact been established?

A Yes, they have been.

Q And that is pursuant to action taken by the faculty [2092] as reflected in interim document—as reflected in

the document entitled, "Further Faculty Action on Faculty Organization Interim Document 1," which is Employer's Exhibit 103.

Is that correct?

A Yes, that is correct.

Q So those committees exist, do they not?

A Yes, they exist at the college, with the one exception I mentioned, the committee on student life.

MR. KRAMER: I renew my offer of the documents.

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

* * * *

Q (By Mr. Kramer) Dean Mirsky, I show you Employer's Exhibit marked 105 for identification, a document entitled, "Senate Unofficial List," [2093] standing committees of the faculty, 1974-1975.

Are you familiar with the document?

A Yes, I am.

* * * *

[2094] Q —first.

Does the typed material deal with standing committees?

A May I review that?

Q Yes.

A The Committee on Academic Statistics is a standing committee.

The Committee on Academic Standards is a standing committee.

The Committee on Admissions is a standing committee.

The Library Committee is a standing committee.

The Faculty Committee Welfare Committee is a standing committee.

And the Committee on Promotions is a standing committee.

Q Would you, just to complete the record, Dean, identify the Ad Hoc Committees, so to speak?

[2095] A They are not necessarily ad hoc committees, but they list faculty members to serve on various committees either within the college or on university-wide committees representing the college.

For example, the Committee on Awards is established to help distribute awards to graduating seniors on commencement.

The University library committee is a university-wide library committee of which Stern College is a representative and we send one of our faculty members to sit on that and it is here listed.

The senators of the Senate Committee are not standing committees of the college, but we have the faculty members who are elected to serve on the senate and the students who are elected on the senate list here.

The shape major committees is an ad hoc committee of the faculty which serves at my invitation to review requests by students to have a shape major approved for them as their official major at the school.

The university-wide committee for the Bi-centennial Celebration is what the name indicates, and one of our faculty members is asked to represent us there.

The university review committee [2096] is a university-wide committee and that lists the name of the faculty member who was elected to represent the college on that committee.

The university pattern policy committees, a university-wide committee to which we were invited to send a faculty representative and that lists the name of the faculty member who was there sent.

And the university computer committee is a university-wide committee dealing with computer operations, and that lists the name of the faculty member of Stern College, who represents us on that committee and the committee on ceremonial occasions is a university-wide committee and that lists the name of the faculty member who represents Stern College at that committee.

Q And that, I take it, Dr. Mirsky, covers this entire exhibit?

A Yes. All the names on the list.

Q All right.

Now, the chairmen, I gather are denoted by an asterisk; is that correct?

A Yes.

Q Each of these committees has—

A Has a chairman.

Q Where there is a chairman is shown by an asterisk; is that correct?

[2097] A Yes.

* * * *

[2098] MR. KRAMER: Thank you, Dean Mirsky; thank you.

Q Now, when we compare the committee listings—when we compare the committee listings in the faculty organization documents, Employer's Exhibit 102 and 103 with the standing committees entitled "Senate Unofficial Committees," we find that there is a duplication.

Are there any—Are there, in fact, separate committees of the faculty and senate committees of the senate or are these committees one and the same?

A No. They are run—They are one and the same. [2099] These are the committees of the faculty.

The senate may have its own committee and established its own committees, but the listing here gives the standing committee of the faculty in accordance with the faculty document.

Q Just so that I am clear on this, then, the committees listed—entitled Employer's Exhibit 102 and 103 on the list that I have in my hand which is Employer's Exhibit 105, are one and the same, there is not—

A They identify the same committees?

Q Right.

A Yes.

Q And to the extent there are additional senate committees they are not identifical in either Employer's Exhibit 105 or 102 and 103; correct?

A Correct.

* * * *

[2103] Q (By Mr. Kramer) Now, Dean Mirksy, in addition to the committees listed on Employer's Exhibit 105, has the faculty at your school had a grade distribution [2104] committee?

A Yes, they had a committee to study grade distribution; yes.

Q Did you have a committee on scheduling patterns?

A Yes. We had such a committee.

Q And on the academic calendar?
A Yes; we had such a committee.
Q And on emergency priorities and budget?
A No; we have a committee which is called the emergency personnel and budget committee.
Q I stand corrected.
A We have such a committee.
Q Would they be fairly called ad hoc committees or special problem committees?
A Yes, they are ad hoc committees established by the faculty.
Q Is there also a bicentennittee of the University, a Dean?
A Yes, there is—there are two bicentennial committees.
There is a university-wide bicentennial committee and then we have an ad hoc committee at the college, a Stern College Committee.
Q And are any part-time faculty members of that ad hoc committee at the college?
[2105] A Yes, one—one member of the college committee is part-time, a Mr.—Professor Michael Hecht, H-e-c-h-t.
Q And he is listed on Employer's Exhibit 100, is he not?
A As a part-time faculty member; yes, sir.
Q Dean Mirsky, let us turn to the Committee on Academic Standards for a moment.
That is listed, is it not, on Employer's Exhibit 105?
A Yes, it is.
Q Does that committee actually meet?
A Yes.
Q About how often? How often last year, the last academic year?
A I'd say in the last academic year the committee probably met seven to eight times.
As of this current semester to my knowledge it has met some three times.
Q Now, this committee, could you tell us what it does?
A Yes.

Its function is to be concerned with the maintenance of proper academic standards at the college.
[2106] It concerns itself with such matters as review of cases of students whose academic performance has dropped below a minimum level and determines whether or not they should be placed on probation, whether they may be continued at the college or be asked to withdraw from the college.
They concern themselves with such matters as final examinations and course and any other such matters that may come up to them.
Q Would it be correct to say Dean Mirsky, that this committee decides whether a student is to say or leave in terms of his academic record?
A Yes, if a student record is not acceptable in the view of the committee, they will ask the student to withdraw from the school.
Q And this committee consists of you and six full-time faculty members appointed by you?
Is that right?
A Yes. And representatives of the office of the Registrary and the office of the student services.
Q These six full-time faculty members are appointed by you, are they not?
A Yes, they are.
[2107] Q Now, if a student is told to leave the university, the university would lose the income from that student, would it not?
A I presume the student would no longer pay tuition. Yes.
Q Dean Mirsky, have you ever overruled the determination of the Committee on Academic Standards with respect to the termination—I don't want to use the word "expulsion," but the termination of a student?
A No, I have not.
Q Now, let us turn to the Committee on Curriculum?
A Yes.
Q Does that committee consist of the department chairman and yourself?
A Yes. And a representative of the office of the Registrar.

Q Now, does that committee meet?
A Yes.
Q Approximately how often?
A Three to four times a year.
Q What is the function of this committee? What does it do?
A It reviews the curricular offerings of the college, makes recommendations to the faculty as a whole as to any changes that ought to be made [2108] in our offerings, in our programatic offerings, in matters affecting requirements for graduation, recommendations to institute a new major or discontinue a major, to pass through this committee and on to the faculty.

Changes in requirements, whether departmental requirements or college-wide requirements for graduation have to pass through this committee.

Q Dean Mirsky, can a course be added at your school or eliminated at your school without the approval of this committee?

A The committee has delegated to the office of the dean the right to approve the addition of new courses within a department and the dean is given the responsibility of determining whether or not this change, as—adding a course or possibly dropping a course which is less significant, in any way affects any other department or goes beyond a simple departmental decision.

If in the opinion of the department chairman and the office of the dean this is an internal matter within a department, then the dean may approve the institution of the course and report periodically to the committee on curriculum for such changes.

[2109] Q Otherwise—.

A Id it is felt goes beyond the limits of the department itself, then that must come before the curriculum listed.

Q And if it goes beyond the limits of the department itself, I assume the course or program cannot be added or deleted without its approval; is that correct?

A Correct.

Q Has this committee in fact dealt with the deletion of an education program at your school, Dean?

A Yes, it did.

Q Would you tell us about that, Dean Mirsky, tell us whether—when this happened and then describe the events as they transpired.

A It is a painful chapter for me.

In about the year 1969, 1970, the academic year 1969, 1970, when I was only one year in the—in the position of dean at Stern College, I reviewed the programs at the college and I recommended to the Committee on the Curriculum that for whatever reasons I thought cogent we eliminate an education major at the college.

The curriculum committee supported [2110] me and we began to eliminate the program.

We then went on report to the faculty.

The faculty debated the issue and reversed the decision and so I had to reinstitute a—an education major at the college.

Q You wanted to eliminate?
A Yes.
Q And the curriculum committee wanted to eliminate; is that correct?
A Yes, which they had voted to eliminate.
Q And that was on the vote of the faculty; was it not, Dean?
A Yes.
Q By the way, Mr.—Strike that, please.

Now, do you have a committee on admissions?

A Yes, we do.

Q And that is listed, of course, in Employer's Exhibit 105; is it not?

A Yes, it is.
Q Does that committee actually meet?
A Oh, yes.
Q What does it do?

A It sets standards for admission into the college [2111] and then reviews applications for admission and determines which students shall be admitted and which students shall not be admitted to the college.

Q What do you mean by "sets standards," Dean Mirsky?

A Well, there are two kinds of standards that would be set.

One would be quantitative and one would be qualitative, so that we—there is a basic statement about what are the minimum requirements that the faculty—faculty would expect a student who is admitted to the college to have, and then either directly or by delegating its authorities to the Office of Admission or to other members of the faculty or even to students reviews are made of the applications that are presented, the documents that are presented in support of applications for admission, and a decision is made on whether the student should be admitted or not admitted to the college.

Q You told us they set a qualitative standard, students who do not meet that standards are not admitted.

Is that a fact?

A Well, no one factor in itself is accepted.

If a student should not—as I understand it, the functions of the committee, if a student [2112] does not meet without question all of the qualifications, qualitative or quantitative, then that must be brought to the committee, as a whole, and they review the total application and make a decision.

So that they may in their judgment recommend the admission of a student who perhaps has not met the minimum quantitative statement.

Q But the decision is yours—is that of the committee, I take it?

A It is the committee's decision; yes.

Q And if a student is not admitted to the college obviously he does not pay tuition to the university; is that so?

A Yes, unfortunately.

Q So that the number of tuition-paying students is determined by this committee of the faculty; is that right?

A Yes. In a way.

Q In essence—

MR. SCHECTMAN: Could I have that question read back?

I'm sorry, the last question and answer.

HEARING OFFICER: Could you repeat the question, please?

(Record read.)

[2113] Q (By Mr. Kramer) On Employer's Exhibit 102 on page 3, reference is made to the Committee on Promotions; is that correct?

A Yes.

Q And is that committee also listed on Employer's Exhibit 105?

A Yes—it is.

Q That committee, I take it, is an elected committee; is that right?

A Yes, it is.

Q Would you tell us what that committee does?

A The committee receives requests for promotion by faculty members or concerning faculty members from lower rank to an upper rank, reviews those requests and makes a recommendation on whether or not that request should be granted, which then I as the dean forward to the office of the president through the vice president for academic affairs to which I may or may not add my comments.

Q Now, Dean Mirsky, has this committee, during your term as dean, recommended that certain faculty members not be promoted?

A Oh, yes.

Q Have you accepted that recommended?

A Yes.

[2114] Q In other words, you have not provided a contrary recommendation in those cases?

A No, I have not.

Q And was that recommendation accepted by the vice president of academic affairs on behalf of the president, and when did not have a vice president of academic affairs -y the president directly?

A Yes.

Q In all cases that you remember.
A Yes—yes.
Q Now, has that committee also made positive recommendations with respect to promotion?
A Oh, yes.
Q Have you accepted all of those recommendations?
A Yes.
As far as I can remember I have approved—recommended whatever the faculty committee recommended.
Q And have those recommendations in fact been approved?
A The great majority of. Not in every single case, no.
Q But in the great majority of cases?
A Yes.
Q And that is by the president of the institution or his delegate, is that so?
A Correct; yes.
[2115] Q Now, let us turn for a moment to Employer's Exhibit 105.
There is a committee there called the Shape Major Committee?
A Yes.
Q Could you tell us what that Shape Major Committee does and how it came to come to—came into existence?
A Yes. The Stern College is a small, comparatively speaking, small liberal arts college and therefore cannot offer as full a range of majors in accordance with the requirements set forth in the faculty document for the development of departments and majors and in accord with the financial commitment that must be made to support such a major.
The faculty, therefore, on recommendation of the Committee on Curriculum instituted what we call a Shape Major.
In a simplified way that might be said to be a custom-tailored major, that if we do not have a formally structured major at the college which a particular student would like to pursue, she can solicit among the faculty to see if there is a faculty member who will review with

her what her desires are and if she can find at least one faculty member who she can [2116] convince that what she has in mind is a respectable, acceptable, feasible undergraduate liberal arts major, he helps her draw up a formal request which contains an allocation of what course she will take, what the goals of that major are, and so on.
Under the regulations passed by the faculty in addition to having an individual sponsor, each such request countersigned by a single sponsor must be reviewed and approved by a committee of the faculty to be as much as is possible representative of various disciplines or major groupings within the liberal arts curriculum.
The Shape Major Committee is such a committee, and students who have a desire for one of these custom-tailored or Shaped Majors presents this to the committee which reviewed the requests and then approves or disapproves.
If the committee approves the request, then that becomes the official major requirement for the student and if the student wants to earn a degree when she applies for the degree her record is checked and if she has met all of the requirements of this major as she would have had to meet the requirements of one of our established majors, she is awarded the degree.
Q And if the committee disapproves?
[2117] A Then she cannot have that major at the college.
Q Then would that affect whether she stayed at the college, possibly?
A Yes, oh, yes. If there have been—in my memory I can think of two students who withdrew from the college because they felt that they could not get what they wanted at Yeshiva.
Q And the tuition of those students was lost to the University?
A Yes.
Q Now, let us turn to the committee on academic statistics which is listed on both Employer's Exhibit 105 and Employer's Exhibit 102.
Would you tell us what that committee does?

A Yes. It is a committee established by the faculty to which the faculty refers requests for certain studies in which it feels it needs to have analysis of the statistics involved.

It may have to do with grading practices and distribution of grades.

It may have to do with registration and admissions patterns.

If the faculty is interested to discover patterns in attrition rates they will ask one of the standing faculty committees or an ad hoc [2118] committee to look into this matter and ask the committee on statistics to serve as a kind of service committee to do the necessary statistical studies that it needs in order to support its studies and help it arrive at certain conclusions or decisions.

Q You have told us, Dean Mirksy, about a faculty committee on grade distribution which is not listed on Exhibit 105 or Exhibits 102 or 10—correction, 102 and 103.

Would you tell us what that committee does?

A Well, it is not a standing committee. In other words, what it did.

It was an ad hoc committee that is no longer in existence.

Q What did it do?

A It studied the distribution of grades at various levels and tried to assess what those grades meant, as far as student evaluations are concerned, and then recommended—actually recommended a change in our grading system.

Q To whom?

A To the faculty.

Q And was that change approved by the faculty, Dean?

[2119] A Yes. We had a grading system which was a little system where grading A through F with pluses and it recommended a change for the introduction of minuses as well as pluses and then asked the committee on standards to review the implications of that in student evaluation.

* * * *

[2120] Q (By Mr. Kramer) Dean Mirsky, the faculty and you thought it important enough to establish a committee on grade distribution, did you not?

A Yes, we did.

Q Now, why did you establish that committee?

What was the real cause of your establishing that committee?

A The committee was established because there were students and faculty members who felt that they wanted a more exact system of, or at least wanted a more exact system of or at least wanted to consider the advisability of having a more exact system of evaluating students on a grade point scale, to help better discriminate among students in any give courses and in giving them a grade so that they could better compare one student to the other and project that [2121] comparison as—which is essentially what grade is on the student's permanent record.

Q At your school, Dean Mirsky, who determines what type of grading system will be in effect?

A The faculty.

Q Dean Mirsky, how long have you been in education?

A From 1946 on.

Q And you have been at Yeshiva College for 25 years?

A For longer.

Q Yeshiva University, rather.

A Yeshiva University for more than twenty-five years.

* * * *

[2122] MR. KRAMER: A University—Let us start this way:

In an automobile factory a supervisor can have seven employees under him and be a supervisor within the meaning of the Act.

A buyer in a meatpacking plant can have authority to buy five thousand dollars worth of meat on a discretionary basis and be a managerial employee, within the meaning of the Act.

A university, such as our university, makes no automobiles, buys no meat, makes no profit.

The tests of determining what is a managerial employee or managerial person in a profit-making context therefore be largely inapposite to a university.

In a corporation there is little question that a sales director or a merchandise—a merchandising vice president or a merchandising executive is a managerial person.

In a university we don't have merchandising directors and sales directors.

Our products are the courses that we offer.

I use that in the best sense of that [2123] word, I am not meaning to demean the university but our product, what we sell although it is not for profit, are courses, major courses, programs, individual holdings, interdepartmental offerings, interscholastic programs, that kind of thing.

Our customers and who they are, not meaning in any crast way are our students.

How we attract students, whether we hold students, the standards to which students are held to are in our view not only educational—of course they are educational, but they are also managerial.

What course we hold out and who decides that, of course, it is educational, but the decision-making process is a managerial process as well.

You cannot divide them apart.

In this case, Mr. Hearing Officer, it is our intention to give the Board a record that leads them to understand what managing an educational institution is all about.

It is more than who is going to pay what to whom or how many dollars are going to be available in one school or in another school.

That is part of management.

It is a part that is looked at today, but there is another very broad part of management, the [2124] part to which I am alluding.

Now, if that part is ignored, what happens is a union structure, a labor organization structure, a collective bargaining structure will like as not be superimposed over the managerial structure of the institution.

Textron teaches that that cannot be done even if there is no conflict of interest and we submit, as we will show in our brief here, that there would be plenty of conflicts of interest but we no longer have to show that.

All we have to show is that these people are managerial; managerial employees have no rights under this law.

They have no rights any more than supervisors have under this law and they have no right under state laws as well.

Now that is what this case, a good part of it anyway is all about, and I don't want to make any speeches because I don't think you proved these points with speeches, you prove them with testimony, and we are going to have witnesses come in here and testify as to what the facts really are and we are going to present those facts to the Board.

[2125] That is why we are asking Dean Mirsky the questions we are asking him because we think the only way we are going to prove this to this Board is to finally make these points plain in testimony.

* * * *

[2129] Q (By Mr. Kramer) based on your experience, Dean Mirsky, is the particular grading system that the college has, does it affect whether students are attracted to it or not, and would you please, in answering the question, please state the basis for your experience?

A Well, first let me state, that the grading system that is—obtained at any given college, is published in the catalog of that college and is part of the [2130] general information which is conveyed to a student who seeks information about the school by reading the catalog.

Q I show you Employer's Exhibit 22A, in evidence, more particularly page 39—

HEARING OFFICER: In evidence in which proceeding.

MR. KRAMER: In this proceeding as it is Board Exhibit 2 has this exhibit in it and it is denominated therein Employer's Exhibit 22A and more particularly page 3.

Q Is that the grading system to which you are referring?

A No, this grading system refers to the grading system at Yeshiva College.

The grading system in effect at Stern College would be found on pages 96 of that catalog.

Q In other words, a student before he comes to Stern College is told what your grading system is, isn't he?

A Yes.

MR. SCHECTMAN: I object to the leading nature of that question.

HEARING OFFICER: Well, I am going to [2131] overrule the objection on that point.

Q Well, would you continue your explanation, please?

A Yes. The student is told the grading system, the significance of the symbols and is even—has spelled out for him or for her in the case of Stern College the actual numerical equivalent and significance of those literal grades that we use in identifying the grades of the students.

I would say that for some students this has significance.

Q Well, how do you know that, Dean Mirsky?

A We know that because we do get inquiries about the grading system.

We are often asked whether we offer certain grading options to students, whether they can, for example, have available for them at Stern College what is often referred to as the PN option.

Q What does that mean?

A It is a practice which is developed among many universities to offer students an opportunity to enter a course with the understanding that instead of being graded on a calibrated scale, they can get either a P or a failure, a—that will be called a FF option or they have the choice of having the course [2132] entered on their record with a P indicating that they passed the course or with an N which would indicate that they did not receive credit for the course but makes no statement about whether or not they passed or failed the course and other advance of that which in the opinion of some students is

quite significant in their decision whether to come to the school or not.

Q A decision as to what grading formulation you will have at Stern College of Women belongs to the faculty I take it?

A Yes, the faculty determines what the grading practice is and what the grading scale is at the college.

If you will permit me to add?

Q Okay.

A I would say from the point of view of the college the grading system is of even greater importance from the point of view of the retention of students.

Q What do you mean by that, Dean Mirsky?

A The student enters the college and tries to do as well as is possible in the college and hopes that the grades will reflect positively on the students and increase—

MR. SCHECTMAN: I object, at this point in that the general—I mean, there has to be [2133] some proviso. This generalization about the student—I am not quite sure—I am a little confused by this line of testimony as to whom or to what has been referred here?

THE WITNESS: Students at Stern.

MR. SCHECTMAN: This is a model student or expected student should be—

MR. KRAMER: I think he is answering—he is responsive to the question, and that the kind of clarification that counsel seeks to elicit would be best elicited on cross examination when you have ample opportunity to ask this witness about these areas should he choose to do so.

MR. SHECTMAN: Well, I will withdraw the objection.

MR. KRAMER: Mr. Hearing Officer, would you read back to where the witness stopped.

HEARING OFFICER: I won't, but I am sure the reporter will. Will the reporter do it?

(Record read.)

A (Continuing) And increase the students prospects for either continued education in graduate school or for pursuing a career or a profession.

Therefore, tje lomd pf tradomg suste,. [2134] the standards which are exercised by faculty in assigning grades to the students are very help—very significant and important to the student.

At Stern College specifically, for example, in order to continue as a student a student must maintain what we call a 2.0 quality index.

Since these letter grades with the pluses and the minuses are translated into actual percentage points and then these percentage points are used to determine the students index in terms of a scale of zero to 4, the grades are important and students who fall below that level, as I have indicated, can be asked by the committee on standards to leave the school, not continue their education.

It often happens, and we have had that in our experience, the students feel that because of our grading system or the grading standards maintained at the college they—their records are not as good as they would like it to be and they sometimes feel that they can do better by transferring to a different school and so leave voluntarily and they do not need to be asked to leave the school, but they leave voluntarily to improve their chances for admission into graduate school or entry into a profession or career. [2135] Q By the way, who establishes the standards you just referred to, 2.0 standard?

A That is made by the Committee on Standards.

Q When a student transfers voluntarily, I take it the University loses the income?

A Yes.

* * * *

Q (By Mr. Kramer) Now, Dean Mirsky, you told us that there was a faculty ad hoc committee on scheduling patterns.

A Yes.

Q What does that committee do?

Before you answer that question, when did [2136] that committee deliberate?

A It was during the academic year '72, '73 carried over into '73, '74 at which point we instituted new scheduling patterns.

Q Now, when did the grade distribution committee deliberate?

A That was back in 1970, 1971, 1972.

Q With respect to the scheduling pattern committee, would you tell us what it did?

A Yes.

If you will permit me a word of explanation, it—the number of credits that a course carries depends upon the number of hours that the course meets per week and the kind of work that is done in that course.

So that courses have various numbers of meetings during the week depending upon the number of credits that the faculty—that is assigned to that course.

Most of the courses are three credit courses and have to meet three times a week.

Some credit courses carry two credits, some carry four or five credits and some we always have to schedule course for a [2137] different number of meetings every week.

When the courses are eccentric in their patterns of meeting during the week, it makes it difficult for a student to fill out a program in which the student can take all of the courses that she wants, adding up to the number of credits that she needs in order to graduate within the stipulated or required—desire number of semesters.

To ease the difficulty we therefore tried to study these scheduling patterns and establish fixed patterns for meetings so that certain course would meet on fixed days during fixed hours of the week to eliminate eccentricities from the scheduling pattern and the committee studied these patterns, drew up about six or seven different models of suggested patterns that could be considered by the college, presented these to the faculty, the number of meetings, they went through each possible pattern and finally approved one pattern of courses.

Q All right.

The faculty approved?

A Yes.

Q Just as they approved the grade distribution change; is that so?

A Yes.

[2138] Q By the way, Dean Mirsky, did you have the authority to veto these scheduling pattern changes?

A Yes, I would have that authority in a sense I would probably have been able to raise certain administrative objections, if it were really—I felt adversely affected the operations of the college and go to the faculty and ask them not to do certain things.

Q Asked them?

A Yes.

Q Could you have ordered them not to?

A I think if I were to—it is a matter of judgment. I would certainly have to appeal to support from the vice president for academic affair and the president to make a final decision.

I don't know that I could personally say "No" to a faculty decision on these matters.

Q Is that also with respect to grade distribution?

A Grade distribution, it is a matter of my own judgment, grade distribution I think much more clearly belongs to the jurisdiction and final decision of the faculty than certain decisions on how many, you know, hours per day the college can afford to be in operation and so on.

It brings in other considerations and we have to bring in other officers.

[2139] Q Now, let us turn to the ad hoc committee on academic calendar. When did that committee meet?

A That committee was actually developed in 1972, 1973, I believe.

At that time certain questions arose as to when sessions should begin, the academic year should begin, and when the academic year should end and then the distribution of holidays and so on through that academic year.

And there were any series—of meetings—models, suggested, given the restraints that are placed upon the college b- the regulations of the Commissioner of Education of the New York State Department of Education, we can divide our own academic calendar.

Q To whom did the committee report?

A To the faculty.

Q Does the calendar require approval of the faculty.

A Actually, the line in that situation was that the faculty was asked to set up its calendar, the calendar that it wanted to, and then there was a request that the undergraduate colleges, Yeshiva College and Stern College for Women, try to develop a unif-rm calendar, and so this was directed to the [2140] academic counsel of the undergraduate schools with approval asking the Yeshiva College to give its academic calendar and to ask the academic council to approve the basic principles on uniform academic calendar.

So that the Stern College faculty decided what patterns it would like to have for Stern College and then asked its representatives to try to work out with the Yeshiva College a unif-rm calendar.

Q Now you told us there was a committee on personnel and budget. Is that right?

A Yes.

Q And what was the function of that committee?

A It was a committee created by the faculty as a result of and perhaps a response to the growing awareness of budgetary strictures that were coming in to play at the college, and the faculty created this committee to consider the implications of budgetary strictures, and retrenchments and to try to help develop procedures and steps, to take steps which allowing for the adjustment—budgetary adjustment would also affect as little as possible the academic offerings of the college, and where the academic offerings of the college were to be affected by budgetary considerations, [2141] to help develop a set of priorities or steps that could be taken towards this end.

* * * *

[2144] Q (By Mr. Kramer) Now, Dean Mirsky, is it correct that the Committee on Personnel and Budget was created in response to a financial crisis at the institution during 1971, 1972?

A Yes.

Q And 1972, 1973?

A Yes, that is correct, and the committee is still in existence.

Q Now, referring to this exhibit?

A Yes.

Q Dean Mirsky, as a basis for this question, but not necessarily as a limitation to its answer, would you tell us what items are what—what discussions were finally made by the Committee to help alleviate the crisis at the school and whether they were in fact accepted?

A Well, I discussed this and some of the other items with the committee.

They felt that all of these things that they had developed as a result of their meeting ought to be taken into consideration; to a degree the [2145] rescheduling or the Committee on Study Scheduling Patterns is a response to one of the recommendations made by this committee in scheduling that we reinstitute or we restudy our scheduling patterns to see what we could do to help reduce further need for extra sessions and make it easier for students to get the courses that they wanted.

And we did look in to some of these other programs which are now—have been instituted such as joint programs with the graduate schools to offer advance courses through the combined undergraduate, undergraduate offerings at the advanced levels and we have eliminated what is implied here, some of the electives which existed in such departments as Art and Music, which we have cut back on and no longer offer because they are not majors, we never had a major- they were service courses and so we retain those which are necessary for meeting college requirements and cut down on the number of electives over—offered in some of these areas.

Q Would it be correct to state that the recommendations of this committee were generally effective?

A I think that they did generate thought and led to some actions; yes.

* * * *

[2149] Q (By Mr. Kramer) Now, Dean, referring to Exhibit 105, to whom does the Committee on Academic Statistics report?

A To the faculty.

Q And the Committee on Academic Standards?

A To the faculty.

Q The Committee of Admissions?

[2150] A To the faculty.

Q And the Committee on Awards?

A To the faculty.

Q And the Committee on Curriculum?

A To the faculty.

Q The Library Committee?

A To the faculty.

Q The Faculty Welfare Committee?

A To the faculty.

Q The Shaped Major Committee?

A That generally does not report to anybody. Simply approves the programs.

Q And the Committee on Promotions?

A To the faculty.

Q With its recommendations; is that so?

A Yes, a report on what business it has done during the year.

Q Does it seek approval of its recommendations from the faculty? Or does it just report them?

A Just reports.

Q All right.

Now, to whom does the Ad Hoc Committee on Personnel and Budget report?

A To the faculty.

Q And on grade distribution?

[2151] A To the faculty.

Q And on academic calendar?

A To the faculty.

Q And on scheduling patterns?

A To the faculty.

Q And to whom does the Committee on Bicentennial report?

A To the school committee.

A Well, that is—that committee is just in formation and it is in formation at the request of the vice president for academic affairs, so that it would probably report on its activities to the faculty rather than at the behest of the vice president of academic affairs.

Q You have told us that the faculty meets at least four times a year.

A Yes, it is mandated to meet four times a year and may meet more.

* * * *

Q Now, when you speak of the faculty, are you speaking of the Stern College Senate or is that a [2152] separate body?

A The Stern College Senate is a separate body.

* * * *

Q Would you tell us, based on your experience at the school, Dean Mirsky, the kinds of things that the Stern College Senate does?

A Under the Constitution of the Senate, all matters affecting the affairs of the college are the proper matter for consideration and action by the Senate.

The only thing that the senate does not take up are matters pertaining to specific individuals.

Q When you say "all matters, Dean Mirsky, would you give us some illustrations of the points—the lines of things that the senate has taken up over the last year or so?

[2153] A Yes. Over the last year or so the senate has forwarded to the faculty a recommendation on the change in the foreign language requirement for the degree at Stern College.

It has sent to the faculty requests for changes in the scheduling patterns.

It has under consideration now a request or a—I don't know what the proper word would be, but a resolution asking that we change the science requirement at the college.

It has reviewed and expressed its conclusions concerning programs such as a—what we call a cooperative program that we have had at the college.

It has worked with the Committee on Admissions to determine whether it has any resolutions that would like to pass concerning admissions and it has raised certain matters having to do with student life at the college.

Q Now, the recommendations that you have described, the senate to have made, were made to the faculty; is that correct?

A Yes, under the constitution of the Senate any resolution which calls for action by the Senate must go to the faculty which can approve it, not approve [2154] it or reject it.

If it does not—if it actively approves or does not disapprove within a stipulated period set forth in the constitution, that recommendation—that resolution automatically becomes binding on the college.

* * * *

[2156] Q Do students have a vote in the faculty?

A No, they do not.

Q Do they have a vote in the senate?

A Yes.

Q Now, Dean Mirsky, let us turn to Employer's Exhibit 100 in evidence and more particularly to the chairmen listed on that exhibit.

Are these chairmen elected?

A No, they are appointed.

Q How are they appointed?

A They are appointed upon my recommendation by the president.

Q Dean Mirsky, before appointing a chairman, do you consult with the members of the department as to who that chairman will be?

A I have not done so; no.

Q And you have appointed chairmen?

A Yes.

Q Is a vote held in the department as to who will be the chairman?

A No.

Q It is your appointment—recommendation of appointment to the president?

[2157] A To the president; yes.

Q Now, do chairmen have reduced load at your school?

A Yes, they can have a remission of teaching or workload.

Q And what is that remission?

A Remission of one quarter of their teaching time.

Q And do they in fact have such a remission?

A Yes.

Q What is considered to be a full-time load at your school?

A Twelve contact hours per semester.

Q Or equivalent?

A Or equivalent.

Q What is meant by "the equivalent"?

A Anything that is approved by the college as meeting that workload requirement. It can be a remission as in the case of a chairman for services rendered, administrative services rendered to the college.

It may on occasion be a remission into permission to carry on research or some other activities of that sort.

Q Now, would you tell us, Dean Mirsky, what role, if any, is played by the chairmen of departments in your [2158] school with respect to the hiring of full-time and part-time faculty?

A Yes.

When there is a need to add staff to the faculty generally a need called to my attention by the Chairman of the department, we consult as to what the departmental needs might be and what the budgetary possibilities are, then the Chairman and/or I, interview people for the position.

We then sit and consult together and upon recommendation of the chairman we agree on appointment, we then pass that recommendation asking for approval to the office of the president.

Q Dean, have you ever appointed any full-time or part-time faculty member who was not acceptable to the chairman of a particular department?

A No.

HEARING OFFICER: Excuse me.

When you talk about discussing with the chairman the need for a new appointment, do you discuss a particular person or a position?

THE WITNESS: No; first we discuss the position.

In other words, is there a need for an additional person in order to fulfill the staffing requirements for the department.

[2159] That will be based on the question of registration, the need to cover courses.

Since we have a workload, maximum workload for faculty of 12 contact hours or their equivalent, if the department who wants to offer a number of courses which add up to more than the total available to them because of the number of people they have, they would then ask for additional staff to meet those requirements-

HEARING OFFICER: Do you seek approval of the position before bringing in the name of a person, or do you combine the two when you make your request to the—I guess the president, you said.

THE WITNESS: Yes, well, I report to the president through the vice president for academic affairs, so, normally, I would take this up with the vice president for academic affairs and we discuss the need to add people and then if we should be told to explore further, we then begin to talk about individuals.

Q (By Mr. Kramer) Dean Mirsky, your testimony applied to a fulfilling of vacancy; is that correct?

A No. Even for adding people into—for not to fill a vacancy, but simply to augment the strength of the faculty.

[2160] Q But it covered both the filling of a vacancy and additional personnel?

A Oh, yes.

Q All right.

And the chairman's role in terms of selection of the particular individual is the same in either case, I would assume?

A Yes.

Q Now, you have actually had discussions with chairmen on the subject of hiring, have you not?

A Oh, of course.

Q During those discussions was particular—what particular chairman—chairmen—speak for themselves, as administrators or were they reporting to you a consensus of their department as to who should be hired?

A Well, in my discussions with the chairmen I talk to the chairmen as the decisionmaking person within the department.

If they, on their own, may or may not have discussed that with other people, I don't know. It is not required nor do I inquire if they have.

Q And in their discussions with you I assume there was no reference to having such discussions with others?

A No.

[2161] Q Now, do your chairmen also play a role in connection with the termination or non-reappointment of probationary full-time faculty and also part-time faculty?

A Yes.

Q Would you tell us about that, please?

A Yes.

Q Would you tell us about that, please?

A Yes. One of the functions which the chairman is to fulfill is to evaluate and assess the performance of faculty members and I meet fairly regularly with all chairmen to discuss these matters, particular faculty members who have been most recently appointed, and we try to evaluate to come to some understanding of their place and their role and how well they are fulfilling the needs and expectations of the department.

And we then try to arrive at a decision as to whether to continue those faculty members or to terminate their appointment.

Q Have chairmen listed on Exhibit 100 actually made recommendations to you for the termination of faculty members, or the non-reappointment of faculty members?

A Yes.

Q All right.

[2162] Have those recommendations generally been accepted by you?

A Generally, yes.

Q And have they made recommendations for the retention of probationary full-time faculty for that matter part-time faculty?

A Yes, yes.

Q Have those recommendations been accepted by you, Dean?

A Yes, generally.

HEARING OFFICER: Excuse me.

On the termination or non-appointment, is that a decision that you make personally or is that something that you take up with the vice president or president of the school?

THE WITNESS: Well, all appointments at—at the University are full-time people, personnel are made by the office of the president.

However, they are based on the recommendations of the dean and the school which we forward to the president.

So when an appointment has to be made, the official letter of appointment goes out from the office of the president, either signed by the president or by whomever he may delegate to sign the letters [2163] for him.

Possibly the vice president for academic affairs.

On termination, the letters have been, at least in Stern College, have been sent by me.

Q Focusing, Dean Mirsky, on the hiring process—

A Yes?

Q —is it usual for the president of the university to interview a new hiring into your school?

A Well, in my experience, this has never occurred.

Q Is it usual for the vice president of academic a-fairs to interview a new hire in your school?

A No.

Q Would it be correct to state that the approvals by the president or vice president of academic affairs of the recommendation that you make upon the recommendation of the department chairmen or routine?

A Yes, I think that would be a fair statement.

Q All right.

Now, you have told us that you generally accept the recommendations of the chairmen concerning the termination or non-reappointment of full-time faculty or part-time faculty; is that correct?

[2164] A Correct.

Q Was there a situation in which you disagreed with the chairman—a particular chairman?

A Yes, there was one such case in particular in which a chairman and I disagreed and could not come to a consensus.

Q Would you tell us about that, please?

A Yes.

This was in approximately '70, '71, when—because of a shrinking budget and falling registration we had to release some people from our staff.

One of the departments thus directed was the Department of History, and I informed the department chairman that we would have to cut the staff, full-time staff in the History Department by one person.

We then discussed this and the chairman then felt that one of the full-time members of the department should be terminated and I disagreed.

I felt that in the overall interest of the college and the balance and in view o- our needs a different member, full-time member of the department ought to be terminated.

We discussed this for a while, came to no amicable consensus. I then forwarded to the [2165] president my recommendation, and the Chairman of the department forwarded her recommendation to the president.

The president sustained me. The Chairman of the department then appealed the decision to the University Review Committee which is a committee that exists at the University.

Q Appealed the decision of the president of the institution; is that correct?

A Yes.

Q All right.

Then tell us what happened.

A Well, the University Review Committee met and heard the case.

I know since it was reported to me and I saw their report, that the chairman was invited to appear before them and give her presentation.

I know that I was invited because I was there, and I presented my side.

The Review Committee considered the case and then issued a—a report with its conclusions which it sent to the president.

Q Is this university faculty Review Committee made up of administrators?

A No.

[2166] This committee is composed of faculty members from each of the academic units of the University elected by each of those units.

Q And is this university Faculty Review Committee provided for in the faculty hand book which is Employer's Exhibit 51 appended to Board Exhibit 2?

A Yes, there is a statement describing the function and the constitution of the university faculty review committee in the faculty hand book to which you refer.

* * * *

[2167] Q Dean Mirsky, I show you Employer's Exhibit 109, marked for identification, a document entitled Yeshiva University Faculty Review Committee by Professor Doris Goldstein, Chairman of the Department [2168] of History—

A I think you skipped that.

Q Correction; let me correct that.

Q I will start again. Yeshiva University Faculty Review Committee, in the matter of the appeal by Professor Doris Goldstein, Chairman of the Department of History, Stern College, on behalf of Dr. Carole Gruber, May 1, 1972.

Are you familiar with this document, Dean Mirsky?

A Yes, I am.

Q Is this in fact the report of the Faculty Review Committee in the matter you just discussed?

A Yes.

Q The conclusions of that Faculty Review Committee can be found on pages 4 and 5 of this document; is that correct?

A Yes.

* * * *

[2169] BY MR. KRAMER:

Q Now, Dean Mirsky, are you familiar with how your faculty is evaluated?

A Yes.

Q Would you tell us how that process goes on?

A Well, the manner in which it is evaluated is something that I mentioned before, that I meet with the Chairman and we discuss the faculty members and conclusions

about to—how they are fulfilling the needs and the expectations of the department and the college.

The chairmen convey to me their evaluation. There is no prescribed method at the college by which such evaluations may be made, but [2170] chairmen can use any way that they do, to my knowledge, because it has been so reported to me, some of the chairmen visit the classrooms for—of the faculty members, sit in and try to evaluate their performance that way.

* * * *

[2171] Q Now let us turn to, Dean Mirsky, to tenure.

Would you tell us what role your chairmen play in tenure decisions at your school?

A When a decision must be made on the granting of tenure to a member of the faculty, the chairman of the faculty—the chairman of the department is—submits a recommendation as to whether or not tenure should be granted to that individual.

That recommendation is submitted to the office of the president, through me, and the decision is then made in the office of the president.

Q Now, is that recommendation made as a consensus recommendation of the department as they would say, or is that recommendation made, to your knowledge, by the chairman himself, individually?

A I don't know that I would have knowledge of it but it is not—a consensus is not required. The department chairman who must submit the recommendation if a department chairman wants to consult with other members of the department, there would be no reason why I presume he couldn't, but the responsibility and my expectation is that I will get the recommendation of the chairman as the chairman of [2172] the department.

Q And is it presented to you in that fashion?

A Yes.

Q Have chairmen come to you and said, My department is divided, I have no recommendation to make"?

A No.

Q Not at any time while you have been dean?

A Not in my experience, no, sir.

Q And you have not gotten minority or majority reports or anything of that type from a department, have you?

A No.

Q Are the chairmen's recommendations for tenure in favor of tenure generally accepted by you?

A Generally yes.

Q And are they generally approved by the president of the institution?

A Yes, they have been in the past.

Q Have chairmen recommended negatively with respect to tenure?

A Yes, they have—

Q And have those recommendations generally been accepted by you and passed along to the president with your endorsement?

A Yes, they have.

[2173] Q And have they generally been approved by the president?

A Yes.

Q Is it a fact, Dean Mirsky—I think it is in the record but I want to be sure—that the chairman together with yourself make up the Stern College Promotion Committee?

A Yes, that is as it is stated in the faculty document—could you repeat that, please?

Q That the chairmen together with yourself, make up the Stern College Promotion Committee.

A No, not the Promotions Committee.

The curriculum committee is made up of the chairman. The Promotion Committee is elected by the faculty.

Q Now in connection with that Promotions Committee, sir, does the chairman have a function?

A Yes.

Q Would you tell us about that, please?

A Yes.

When a faculty member is being considered for promotion from rank to rank a recommendation of the chairman is solicited.

If it has not already been submitted by the chairman. [2174] Q Do you attend the meetings of that committee?

A Y-s, under the -aculty statute I am the Chairman of the Committee on Promotions and the membership is elected by the faculty.

Q Would you tell the Hearing Officer, what the weight or effect of the chairman's recommendations are within the deliberations of that committee, as a general matter? If that may be done.

MR. SHECTMAN: I ask for direction that the witness not state a conclusion here but state specific facts or occurrences by which such a conclusion as to the weight of anyone's opinion might he.

MR. KRAMER: I think the witness should be allowed to answer the question. I think he has been very responsive.

HEARING OFFICER: That was not an objection, was it?

MR. SHECTMAN: No.

HEARING OFFICER: That was a request?

MR. SHECTMAN: Right.

THE WITNESS: I was going to say that obviously since a decision is made by individual vote of each faculty member, in other words, it is a matter of vote of each member of the committee as to whether to approve or to disapprove a recommendation, [2175] it is hard for me to say how much weight they put in their own minds to any single factor, but, generally speaking on the basis of experience any time that there has been an instance in which a chairman has not recommended promotion, that promotion was not approved by the committee, so I would assume that certainly a negative recommendation carries a great deal of weight in the minds of the committee and a positive recommendation they would weigh with all other factors if they have to take—that they have to take into mind.

Q Dean Mirsky, is there an associate dean at Stern College for Women?

A No, there is not.

Q Is there an assistant dean at Stern College for Women?

A No, there is not.

Q In addition to yourself, Dean Mirsky, what administrative staff do you have supporting you?

A The office of the dean, I have one person who serves as an assistant to the dean and then there are secretarial staff.

Q Are there any other administrative people who help you? At the school, I mean.

A At the school, yes, but not through the office [2176] of the dean.

There is an assistant registrar through the office of the registrar.

There is a director of student services through the office of the vice president of student affairs.

There is someone assigned by the office of student finances to deal with student finances.

There are—there is a director of residence hall assigned through the office of the vice president for student affairs.

There are librarians assigned through the university librarian.

There maybe one or two that I have missed but essentially that is it.

Q Those administrators that you just named, however, function in relation to students rather than to faculty, I take it, for the most part?

A Yes, except insofar as the life of a student touches the life of a faculty member and vice versa.

Q All right.

Approximately how many students do you have?

A Approximately 550.

Q Dean Mirsky, you have prepared Employer's Exhibit 100, [2177] have you not?

A Yes.

* * * *

[2181] Mr.—Dean Mirsky, if the departmental chairmen are held to be non-supervisory or non-managerial within the meaning of the National Labor Relations Act, the supervisory ratio at your school will be about 80-to-100; is that correct?

* * * *

[2185] HEARING OFFICER: The objection has been sustained. If counsel wishes to make an offer of proof, the offer of proof will be accepted.

MR. KRAMER: The offer of proof is that the ratio would be 80-to-1.

* * * *

[2198] Q Are part-time faculty at your school compensated on the basis of honorarium or honorariums?

A No, they are paid a salary.

Q And is there a salary scale?

A There is no fixed salary scale. There are established parameters for payment made to part-time faculty people who were brought in on the staff, depending upon their service, their background, their preparation, their degree of specialization, and so forth.

Q Is that different—go ahead.

A And that will range between the parameters set for each level for the college.

Q Is there a separate scale or range for full-time faculty?

A Yes, there is an established salary scale for full-time faculty.

Q And it is different than the one for part-time faculty?

[2199] A Yes, sir.

HEARING OFFICER: Excuse me.

Who sets the salary within the parameters? Is that somebody whose—is that something that is negotiated when—between the individuals and someone at the college?

A No, the parameters are established by—in negotiation between the faculty and the administration.

The faculty scale is established between the Faculty Welfare Committee and the administration.

HEARING OFFICER: Who decides what to pay a particular part-time individual?

THE WITNESS: You mean within the parameters?

HEARING OFFICER: Yes.

THE WITNESS: Not the parameters themselves.

HEARING OFFICER: No, within the parameters.

THE WITNESS: Oh, this is a determination that is

made between the—you know, it is negotiated, so to speak, when the individual who is to be hired, has to be submitted for approval because in the same way that anybody else who is added to the payroll has to be submitted for approval to the office of the president.

My recommendation is determined by the—my own evaluation and the evaluation of the department [2200] chairman as to the quality of the person involved, whether the demand made by the person is commensurate is what we think we can get from him and if we agree on these figures then I try to get the approval of the university for this salary for this part-time person.

* * * *

[2201] HEARING OFFICER: All right. I am not questioning that. I am trying to get at a point where part-time faculty negotiate their salaries on an individual basis with you.

THE WITNESS: On initial appointment?

HEARING OFFICER: Right.

THE WITNESS: Yes.

HEARING OFFICER: Is that true of full-time faculty also?

THE WITNESS: Yes.

HEARING OFFICER: They also—

THE WITNESS: Any initial appointment is determined—once the decision is that we agree to recommend to the university this person, and that the person should be brought in at this level, in other words, whether it is a full-time or not, if this person, let us say, within a full-time appointment, of course, we give him the rank; let's say that we want to bring someone in who is a full professor, then the negotiation [2202] takes place with the individual within the steps of the established salary scale for a full professor, even though we don't give him that rank, there is a predetermined range that we have of what we can offer and that is—that exists, and then we—we deal with the individual.

Once the individual is put on payroll and then if that appointment is continued into the next academic year, then there is no individual bargaining any more.

It then—the full-time person goes up the scale in accordance with whatever his predetermined is and the part-time person will get whatever allowance is agreed on for part-time people, and that becomes fairly uniform.

HEARING OFFICER: Thank you.

Mr. Kramer?

MR. KRAMER: Yes.

BY MR. KRAMER:

Q Approximately how many of your full-time faculty members do not have tenure?

A About sixty percent don't have tenure.

Q Now, are you familiar with the University's revised tenure regulations which are part of the faculty hand book?

A Yes.

[2203] Q And that hand book is in evidence as Exhibit 51; is that correct?

A Yes, I am familiar with the hand book.

Q And—

MR. KRAMER: For the record, it is in evidence as Exhibit 51 to Board Exhibit 2.

BY MR. KRAMER:

Q Under—In the revised tenure policy, may a full-time faculty member not be tenure eligible?

A Yes.

Q Would you explain how that comes to past?

A Yes. The—Under the University tenure policy, tenure is granted only to people who hold the rank of assistant professor, associate professor or professor.

Members of the faculty who even if they are full-time members of the faculty or hold any other title, such as visiting or research or adjunct to whatever else it may be, are not eligible for tenure.

In other words service within those ranks does not accrue towards credit towards tenure.

Q So that there are people who will be working full time all their time at the University, full time at the University, who are not tenure eligible?

A Correct. Yes.

Q Are part-time faculty tenure eligible?

A No, they are not.

* * * *

CROSS EXAMINATION

[2227] BY MR. SHECTMAN

Q Dean Mirsky, Employer's Exhibit 104 is the constitution of Stern College Senate and Article 2 lists the qualifications for membership, including six faculty representatives.

Are any of those faculty representatives part time faculty?

HEARING OFFICER: What exhibit is this? 105?

MR. SHECTMAN: 104.

HEARING OFFICER: 104?

MR. SHECTMAN: Yes.

A These—The faculty representatives on the Senate are elected on a rotating basis in accord with the stipulation in the constitution.

On the list that I have before me in Employer's Exhibit 105 there are the six members of the faculty who are listed as representing the faculty on the senate this year and looking through those I would say that none of those listed are part-time people.

There is no stipulation, as I see it, [2228] in the constitution that says that a part-time member cannot be elected by the faculty to serve.

Q On Employer's Exhibit 105, there are two faculty members who are part-time listed with membership on the committees listed on that exhibit.

Each one of those faculty members is listed on Employer's Exhibit 101 as having an affiliation with an outside institution.

Could you explain in more detail what is meant by that?

A What is meant by what?

Q An affiliation with an outside institution. I think listed is Baruch College, Fairleigh Dickinson, et cetera.

A Yes.

What I have listed there is those people who are teaching part time at Stern College who, to my knowledge because they have so informed me or because we have it in

the record, hold appointments at some other institution and so Dr. Samuel Bernstein whose name appears on Employer's Exhibit 101 is a full—holds a full-time appointment at the Bernard Baruch College of the City University of New York and teaches part-time at Stern College.

Q Is it possible that there are other part-time faculty members who may not have informed you with [2229] affiliations without outside institutions?

MR. KRAMER: I must object to these questions.

The witness has testified that, to his knowledge, these are the—these are the only ones.

I think implicit in it wasn't he—was he nominally present, omissions about these matters.

Is it possible? Anything is possible.

HEARING OFFICER: Sustained.

BY MR. SHECTMAN:

Q When a part-time faculty member is hired, it required that he indicate to you or to any other university officials whether he has a full—an affiliation with an outside institution?

A At the time of initial interview, yes. We ask the faculty—the potential faculty member, the applicant, to give us a CV, a curriculum—a resume of his activities, background and so on and so forth, which we expect him to list these things and so we have that information at the time of appointment.

If he remains a part-time faculty member at the college and should make changes in his affiliations, other than that, we presume and expect that he will inform us of this as a matter of [2230] courtesy.

But there is no requirement that he do so.

Q I see. All right.

Are there not limitations on outside employment for full-time faculty at the university?

A Yes, there are, as stated in the faculty hand book.

Q And that pertains, does it not, to all full-time faculty?

A To full-time faculty employees of the university. Which my definition means that they are giving their full time as services to Yeshiva University.

Q Do you take part in the formulation of a budget for Stern College?

A Yes.

Q Is that done on an annual basis?

A Yes.

Q Included on that budget is there any provision for the income pursuant to student enrollment, Dean?

A I don't understand your question.

Q Does the budget list—make any listings or provisions for the income by tuition that Stern College would generate to the university?

[2231] A Yes, in the overall consideration of approval of our budget this is one of the things that the university budget committee and the office of the vice president for financial affairs takes into account.

Actually the—

Q Well, is—

MR. KRAMER: I don't think the witness has finished his answer.

A As the bulk—So the bulk of my involvement in making up a budget is a projection of the expenditures.

The question as to whether or not those expenditures will be approved are raised by the office of the vice president of financial affairs who then may point out to me that because of falling enrollment or decrease in or increase in enrollment we may or may not expect to spend at that level.

Q In the annual budget, though, will there be a projection of income by enrollment?

A The annual budget?

Q Yes.

A Of Stern College?

Q Yes.

A No. We don't draw up the annual budget that way. That appears in the annual budget of the university.

[2232] Q And who draws up the annual budget for the university?

A That is projected, presumably, by the vice president for financial affairs and his staff.

Q And within that budget, is your understanding that there is some—there is some figure or projection for the enrollment income at Stern College?

A That has been so stated often.

Q And will you learn what the projected enrollments will be for Stern College or is anticipated?

A I supply it, or I, in conjunction with the reports given to me by the Committee on Admissions, project what we think would be a reasonable level of the—and the office of the registrary issued—In other words, there are two components, there are the current students—student body and the incoming student body.

The Committee on Admissions gives me a projection on what, we can expect as an incoming class, the size of the incoming class and the office of the registrar reports to me their estimate of how many students will be—will have completed their degree requirements, how many may withdraw so we will have an idea what the total enrollment would be.

[2233] Q Has there been any time since you have been dean at Stern College where there has been a decision to expand the enrollment of the college?

A That had been the standing directive under which I have worked as a dean.

Q And where is that directive—Where does that directive come from?

A That directive has come from the University and the discussions that have emerged in the various—in faculty meetings.

Q From whom has it come in the University?

A As all things come to me from the office of the president through the vice president for academic affairs.

* * * *

[2240] (By Mr. Shectman) You indicated, did you not, Dean Mirsky, that, with reference to the committees listed on Employer's Exhibit 105, the university administration, beginning with yourself and going on to the office of the president and academic vice president, maintains certain veto powers over action by these committees?

A No, I don't recall having said that. I don't believe it to be true.

The only time that I recall having made any such statement was a question if a recommendation were to be made in regard to—if the committee on scheduling, which was an ad hoc committee, had recommended something that I felt was not proper, would I have veto power on that; and I said that I certainly, you know, would have the power to object to it, and probably would have to have [2241] recourse to the president or the academic vice president if we had to adjudicate the matter.

Q Now, on the committee on promotions, you indicated that was an elected committee.

A Yes, those members are elected by the faculty.

Q And which faculty members would be entitled to vote in that election?

A All faculty members who are empowered to vote under the faculty documents, which would be full-time members of the faculty and part-time members of the faculty, whoever taught for three consecutive years and have taught three hours or more, as stated in the document.

Q Now, you indicated that the department chairman at Stern College are appointed by yourself.

A Yes, technically they—certainly upon my recommendation, which has to be approved by the office of the president—the president or the academic vice president.

* * * *

[2242] Q (By Mr. Shectman) You indicated in your testimony with regard to the hiring of new faculty that you undertake certain consultations as to the needs for new faculty and budgetary considerations.

With whom will you make such considerations in matters of the budgetary—in budgetary matters?

A Well, initially with the department chairman and —at which point any decision that we make carry budgetary implications, and we will discuss whatever those implications may or may not be.

Once we have an agreement, and then we pass that on to the academic vice president and the vice president for financial affairs.

Q You indicated in your testimony this morning that department chairman may or may not discuss considerations or decisions about hiring new personnel with other members of the department.

In preparation for these hearings, did you talk to or discuss with departmental chairmen whether in fact they did consult and discuss with other members of the [2243] department on decisions—on hiring decisions?

A No, I did not.

What I reported is what I have and based on my knowledge and experience with them.

Q The matter you referred to that was brought to the faculty review committee involved the retention of a Dr. Carol Gruber, did it not?

A Yes.

Q And it was the position of the department chairman, was it not, that Dr. Gruber be maintained?

A Be retained, yes.

Q And it was your position, was it not, that she not be retained?

A Correct.

Q Was Dr. Gruber retained?

A No, she was not.

Q In fact, did the university faculty review committee have any authority whatsoever to bring about her return to the teaching post?

A The university review committee in its report, which I saw a copy of, stated that, as to the matter of the individual involved, Dr. Gruber, since she was a nontenure person, retention or not did not constitute a grievance that would fall under its jurisdiction; but what did remain in its jurisdiction was the question as [2244] to whether or not I had infringed improperly on the rights of the departmental chairman. And they addressed themselves in their report to that point.

Q And do you know how many grievances have been brought before the university review committee in the last three years?

A I do not recall the total number, but the university review committee reports regularly.

MR. KRAMER: I think there is testimony in the record, Board Exhibit 2, on the number of grievances that have been brought. Whether it's been in the last three years or not I frankly don't recall.

The number, I believe, was four that was testified to by previous witnesses.

Q The conclusions of the university review committee in the Gruber case—and that is contained within Employer's Exhibit 109—states that it is the president in whom ultimate responsibility rests; he alone makes the crucial decision in the final analysis—

Change the order of that sentence. I will read it as quoted—

MR. KRAMER: I must object to reading sentences from the document.

MR. SHECTMAN: I am not reading.

MR. KRAMER: The document speaks for itself. It [2245] should be read in context.

I purposely refrained from not reading from this document.

Q With regard to this document, and in reference to the president's ultimate responsibility, I refer your attention to page 4 of Employer's Exhibit 109.

Is it not the case, Dean Mirsky, with regard to nontenure faculty, for instance, that your role or the role of the department chairman or the role of anyone else in the university would only be advisory with regard to the ultimate decision of the president?

A You are asking me to express my understanding of what the structure of the university is.

As I understand it—and I may be wrong on this—the president is the chief executive officer of the university working under the mandate given him by the board of trustees. As such, he exercises the right, or basic decisions, ultimate decisions.

In the case at hand, I did submit my recommendation, and Dr. Goldstein submitted her recommendation to the president.

The president supported my position.

Yet the avenue of appeal was open to Dr. Goldstein. She did go to the grievance committee or the university faculty review committee, which did review the case and [2246] then submitted its recommendation back to the president. So that obviously there are avenues of approach open to people other than that.

But I think, corporately, as I understand it, the chief executive officer does indeed carry the responsibility for ultimate decisions. But I am not a legal person.

* * * *

[2251] Q Now, in your testimony this morning you spoke of the role of departmental chairmen and evaluation of faculty, and indicated that departmental chairmen might ask students about the performance of certain faculty members, did you not?

MR. KRAMER: Excuse me.

A I don't recall if I said it, but I do recall saying that some departments have developed their own evaluation documents, questionnaires which they do distribute to students.

It is possible—I really don't know—that some departmental chairmen do talk to students and solicit [2252] their opinions and evaluations about courses.

Q By these questionnaires they would be soliciting information?

A Yes.

That's a written document. You asked whether they talked to students. I presume they do, but—

Q Would they also on occasion solicit information about the performance of a faculty member from other faculty members?

A Presumably they might.

Q Now, with regard to the policy on tenure and the department chairman there, do you know if department chairmen consult with other faculty members or other members of the department as to their recommendations to you as to the eligibility or tenured status of any faculty members?

A I don't know what practice they use.

The only way I would know if if someone told me that that had been done, but that's the only way I might know.

Q And is it you who submits a recommendation to the office of the president for granting tenure to a faculty member?

A I submit the total record. In other words, I submit all of the documentation to the office of the president. [2253] That documentation would include whatever recommendations I would have from the departmental chairmen, whatever else would exist—I have, information that would be necessary or that would be requested of me.

Q What kind of information—

A And I may or may not add my own personal recommendation.

Q What kind of information would conceivably be forwarded to the president's office or vice president for academic affairs?

A Length of service, activity within the college, lists of publications, recognitions that might have been given in the academic community, service to the university other than through the college; anything that would help.

Q Is it your normal practice not to make a recommendation as to tenure?

A Generally speaking, as I indicated, I do make a recommendation.

And in most instances, if not in all, I have gone with the recommendation given to me by the department.

Q Have you gone with the recommendations given to you by the department in all cases?

MR. KRAMER: I must object.

There is no testimony that he went with any recommendation by any department.

[2254] THE WITNESS: By the chairman.

MR. KRAMER: But by the chairman.

* * * *

THE WITNESS: —that recommendation comes to me from the chairman—

* * * *

THE WITNESS: Yes.

My presumption was that we would—it was perhaps an oversight on my part since we were talking in context, and I said these recommendations come to me from the chairman. I solicit them from the chairman in his capacity as [2255] chairman.

I do not ask him how he arrived at this recommendation, nor do I know, nor do I particularly judge his recommendation as to he has consulted with others or not.

When I said "sent from the department," in my context that meant the recommendation given to me by the chairman in the department.

Q Dean Mirsky, in this very important question of faculty members' tenure at Yeshiva University, have you on occasion consulted with faculty members whether or not department chairmen?

A On whether or not to grant tenure to an individual?

Q Or the merits of making that recommendation.

A I do not believe I have ever done that.

Q The only person you will talk to, or the only member—the only member of the faculty to whom you will talk on which to base your recommendation for or against tenure will be the department chairman?

A Stern College faculty, yes.

Q Have there been any occasions where you have recommended against the recommendation of a department chairman?

A There might be one such instance.

In this case it happened to be a departmental chairman who was up for tenure and recommended himself for tenure, and I did not.

[2256] Q And that is the only instance that you recall?

A Yes.

And he was granted tenure. He is a tenured member of the faculty today.

Q And have there been occasions where the vice president for academic affairs or the president of the univer-

sity has not complied with your recommendation and the recommendation of the department chairman?

A I cannot recall any such instance in the past.

Q Was there—

A With the exception of the one I mentioned before, where the president granted tenure when I recommended not to.

Q Was there at one time a freeze on the granting of tenure at Stern College?

A To the best of my knowledge, there was never a freeze on the granting of tenure.

Q You indicated that there was a committee on promotions, did you not?

A Yes.

Q Are there any department chairmen on that committee?

A Let me look at the list.

Q I see there is an asterisk next to your name.

That does not indicate you are a department chairman?

A No. I am chairman of the committee.

[2257] Q I see.

A On that committee Dr. Appel is a departmental chairman. Dr. Eidelberg is a departmental chairman. Dr. Friedland is a departmental chairman.

Q The remainder are not, then?

A The remainder are not.

Again, of course, these were people elected by the faculty as faculty members.

Q Now, I believe in your testimony this morning you testified as to the activities and purpose of all of these committees, and I don't recall such testimony with regard to the faculty welfare committee.

Would you tell us what their purpose and activities are?

A The faculty welfare committee concerns itself with matters affecting the welfare of the faculty.

Q Would that include their salaries?

A Yes, certainly.

Q And, as a product of their activities—
MR. SHECTMAN: Can we go off the record?
HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.
Q (By Mr. Shectman) I show you Employer's Exhibit 80-A from the prior proceeding entitled "Faculty Salaries" with [2258] indication of Yeshiva College and Stern College under salary steps proposed for the faculty, years, and rank, and then the categories of—of the faculty.

Was this—Were these salary ranges worked out with the faculty welfare committee?

A Yes, without checking each figure, but looking at the general thing, this seems to be the faculty scale worked out.

Q And are the faculty employed at Stern College employed pursuant to such a schedule as is or as amended?

A Yes, the full-time faculty are.

Q And are departmental chairmen paid according to such a schedule?

A Yes, they are.

Q Is the dean of Stern College paid according to this schedule?

A No, he is not.

Q Are the part-time faculty of Stern College paid according to this schedule?

A No.

As I mentioned earlier, they have a different range of salaries.

Q The salaries listed here, I assume, are per annum salaries?

A Yes. They are for the academic year.

[2259] Q Is it then true that, prior to this academic year, the salaries for full-time faculty at Stern College varied between $14,000 and—excuse me—varied between $7,000 and $19,500?

A On the—well, first on—that was the scale that was in effect with one modification. I would say those are

not the actual salaries, because, to the best of my recollection, there was no one earning less than $8,500.

The scale was, say, 7,000, of which was the beginning scale, but there was an increase granted by the university on a percentage basis of the salaries.

And so people who were at the maximum at any level were earning some—above the printed maximum of that scale.

MR. SHECTMAN: Off the record.

(Discussion off the record.)

HEARING OFFICER: Let's go back on the record.
Q (By Mr. Shectman) Do you have a written salary range for your part-time faculty?

A Yes, I have general ranges.

Q And they have been formalized into some document?

A They were submitted to me by Dean Frimmer, who is my predecessor in the office of the dean, saying that these are the—these were the ranges that were given to him. And I have gone along with those ranges since.

[2260] Q When did Dean Frimmer give you those ranges?

A In the spring of '68, I presume, when I was getting ready to go into the office.

Q And those ranges remain in effect?

A No. In—Well, generally those are the ranges that remain in effect, but in the year—I believe it was—I don't recall—'69, '70 or '70-'71, on appeal, the university granted the part-time faculty at Stern College an increase of ten percent, of course for each part-time faculty member, so that was agreed.

Q So was that the last increase that the faculty was given?

A Part-time faculty, yes.

Q When was the last increase that was given to the full-time faculty?

A The full-time faculty, as I indicated, works according to the scale. So, except for one year when there

was a freeze on increments, all faculty members went according to the scale.

And then, when the university made its adjustment for those who were at maximum, that was taking them above the scale.

Q So then—

A There is a—there was negotiation for the current scale, and this is the scale up until the current year,

[2261] Q Were there—

A In the negotiations, faculty welfare committee presented to the university a request for revision of the scale for full-time people and an adjustment in the scale for part-time people.

Q Now, in the year 1972-1973, for the academic year, someone working in '71 and '72 would receive an increase according to the exhibit in '72-'73, would he not?

A Yes, that would be normal procedure.

Q Would a part-time faculty member receive any such automatic increase in the years '72-'73?

A No.

I indicated this was worked out with the welfare committees. And, since that did not contain automatic increments, no automatic increments were given.

So, whatever agreement—I was not dean at the time that this salary schedule that you have was agreed to, so I don't know the details of it, but whatever was agreed to is what had been implemented.

Q Are there full-time faculty members at Stern College who do not have 12 contact hours?

A Yes.

Q They, I assume, have some contact hours that are —they have some contact hours, and then the equivalent —then it's equivalents as defined by you?

[2262] A Me or by the university, yes.

As I indicated, departmental chairman, for example, have a remission of one quarter of their workload.

Q Are there any other faculty at Stern College who have such a remission or such equivalent status?

MR. KRAMER: If you understand the question.

Q Do you understand the question?

A Are you asking whether anybody else gets a remission—

Q Yes.

A —for these duties?

Q Yes.

A The only people who get these remission—this kind of remission are departmental chairmen.

Q Are there any other faculty on the Stern—at Stern College other than departmental chairmen who do not have 12 contact hours?

A Who do not—

Q Full-time.

A —have 12 contact hours or their equivalent?

Q No.

Let me ask you again.

Putting aside departmental Chairmen, are there any other full-time faculty at Stern College who do not have 12 contact hours?

A Yes.

[2263] Q Could you describe some of them?

A Offhand I can think of two.

Q Could you tell us about that?

A One is a departmental chairman.

Q Putting aside departmental chairmen.

A Yes, there is a departmental chairman who has a further remission of—on the workload because, upon appointment, the letter appointment indicated that she was to carry other responsibilities which had to do primarily with the teacher preparation program, coordination, supervision of our tuition—of our teacher certification program, and therefore consideration was to be given for those duties and towards a reduction of the number of contact or classroom hours that she would be teaching. That would be an equivalent.

And there is another faculty member who was granted a remission of some contact or teaching hours to permit research and publication—completion of research leading to publication of a book.

• • • •

[2280] THE WITNESS: Well, I will try to give you some—it's obviously a personal view, although this is something that has been discussed within the academic community for—for many, many years.

I have heard an extreme position given by one vice president for academic affairs who felt that virtually every waking hour of a faculty member ought to be and, in a sense, is devoted full time to his improvement as an instructor and, oh, to familiarize himself with the—with the subject that he is teaching and all other related subjects.

On the average, I think it is expected that, in addition to the hours that a faculty member invests in actually meeting with students in the classroom and as advisor to students and general contact, and in certain more easily quantified activities such as grading examinations and grading papers, making up—reading lists, advising syllabi, and participating in faculty departmental meetings and faculty meetings in university functions, and so on, that he should be spending a good deal of his time in reading, in carrying on research, in professional activities, perhaps participation in professional associations, in his own writing, and things of that sort, and so the range—it is felt that—it's extremely difficult to talk about whether a faculty [2281] member can be said as putting in a 40-hour week or a 48-hour week, or anything of that sort, that this obviously will vary with the conscientiousness and the range of the faculty member's interest, and what he thinks is germane to him.

But, generally, if we give a faculty member a full-time appointment, it is felt that he should be available for all of the more normal aspects, as I indicated, classroom, advisement, participation in meetings, and so on, and, in addition to that, try to make sure that he has enough time left to keep himself abreast of what is going on in his field and related fields by grade hours.

And it is for this reason too that, when we have what are called interest sessions or vacations, while presumably faculty members can rest up by fishing and playing golf, they're also expected to be on the job by reading, broadening their fields and so on, and research.

It's an extremely difficult thing for me to experss.

I would say, on the basis of my own experience, there have been times when I have probably put in a work week, between reading and preparing for courses, and trying to keep ahead of my students, which is not always easy, by putting in 60 and 70 hours a week; and sometimes by doing significantly less.

* * * *

[2285] Q That's not what I mean.

I mean now, in terms of putting aside the process which you have already explored, when a full-time member is hired, or a full-time faculty member is hired at Stern College, can he be hired in any of the professorial ranks?

A Yes, that's a decision that's made.

[2286] In other words, when I discuss with a departmental chairman the question of new faculty, if it is felt that the needs of the department are such that we need a senior person, which means someone with more years of experience, perhaps higher levels of training, perhaps greater publications or research or greater recognition in the field, we discuss also the implications of that, because the higher, or the more senior member of the faculty, at the higher rank, which will reduce the budgetary—budgetary flexibility that will exist within the department and, consequently, within the college for further appointments.

And so we weigh whether it would be better to have, let's say, a full-time professor at this point to serve our needs or rather two instructors, for whom we can for the same we could get one, and what our needs, and how long it would best serve that.

When we agree on this, we can then recommend and request that the appointment be made at any rank.

In other words, there is nothing that prevents a person from coming in at an advanced rank. Not everybody must begin in the instructor's level.

Q In making that recommendation to, I assume, the office of the president or the vice president for academic affairs—

A Correct.

[2287] Q —would you provide the basis of that recommendation?

What I mean by that is the—we're talking about someone who would get an appointment higher than that of instructor.

A Yes.

Q Would you provide information as to the person's background and qualifications and why?

A Yes.

Q You would recommend a higher appointment?

A We do that on two—two levels:

One is the level of the individual. In other words, if we are asking for someone to be brought in with a given professorial rank, we would try to justify that by giving his credentials, showing that he is worth they have this kind of rank. And then we would try to justify that on the basis of the needs of the department and the college, as department chairman, and I have worked that out.

Q You would justify that to whom?

A We go to the office of the president through the academic vice president.

And that may sometimes, of course, lead to some kind of discussion, although this is very rare, with the vice president for business affairs, since this is largely an academic and not a business decision.

* * * *

REDIRECT EXAMINATION

[2291] Q Dean Mirsky, to clarify the record, have you received adverse recommendations with respect to termination and reappointment from the department chairmen?

A What do you mean, adverse?

Q Anything negative. They wanted certain faculty members, be they part-time or full-time, not appointed the following year.

A Yes.

Q Or terminated the following year.

A Terminated, yes.

Q Have you accepted those recommendations?

A Yes.

Q Have you also turned down some of those recommendations.

* * * *

[2292] A Yes.

Q Have you also turned down recommendations for non-appointment or termination?

A No, I cannot recall an instance where a departmental chairman said he did not want a faculty member reappointed that I did not accept that.

Q How about where he wanted him reappointed?

HEARING OFFICER: I believe we have testimony—

A I believe—I can't—I can't recall an instance, except for the one that we discussed with Dr. Gruber.

MR. KRAMER: That's what I was getting to, Mr. Hearing Officer.

HEARING OFFICER: All right.

Q Is it a fact, then, Dean Mirsky, that the Gruber incident, which is reviewed in Employer's Exhibit 109, was the only situation in which you refused to accept the recommendation of the department chairman for the retention of one faculty member, retention of a faculty member?

A Yes, I believe that's true.

Q And the appeal that's reflected in Exhibit 109 stemmed [2293] from that; is that correct?

A Yes.

Q You consulted with that chairman, did you not?

A Which chairman?

Q The chairman—Doris Goldstein.

A Yes.

Q Doris Goldstein?

A Yes. We discussed the matter.

Q But you did not accept her recommendation?

A No, I did not.

We discussed that a number of times too.

Q And she didn't have the authority on her own to effectuate the reapportionment, is that correct?

A That is correct.

* * * *

[2297] Q Now, putting aside questions of tenure for the moment, does such a faculty member—and you have named three of them—putting aside the questions of tenure, do they have appeal with respect to their non-renewal or termination?

A Yes, if they feel that they have a just grievance, that some improper action has been taken against them.

Q Where is that appeal taken?

A They can appeal within Stern College through the welfare committee or to the university review committee, the university faculty review committee, or, if they want to, on personal appeal, they can go over my head, so to speak, and appeal directly to the academic vice president and ask for reconsideration.

Q Putting aside questions of tenure, have Professors Rosoff, Silver, or Bittman filed such an appeal?

A No.

Q Now—

A Other than the request for consideration for tenure, which is another thing.

Q Now let's deal with the question of tenure.

A Yes.

Q If the termination was because a professor has been [2298] denied tenure there an appeal procedure there?

A Yes, there are two kinds of appeals in that such a faculty member may make.

One is a direct appeal as I indicated before perhaps to the faculty—University Faculty Review Committee, that tenure ought to be granted and this then is in the nature of a grievance, appealing that some improper action has been taken against this faculty member or there can be a request that the eligibility of the person for tenure either be reviewed generally or under the new tenure policy statement that the faculty member indicates that he or she is prepared to consider reappointment to one of those titles that would not accrue further credit towards tenure then they may appeal on that score and then that may or may not be granted.

Q All right.

With respect to the three faculty members you have

testified about have any of them appealed on the grounds that—have any—any of them—strike that.

Have any of the three faculty members you referred to been terminated because they are not going to be granted tenure?

A Yes, two of those faculty members.

Q Which two of those?

[2299] A Professor Rosoff and Professor Silver.

Q Now, has Professor—either of those two faculty members processed an appeal alleging that tenure has been improperly denied for one reason or another?

A Improperly denied?

Q Yes, sir.

A No, they have not filed such request.

Q Have either of those two professors asked that their denial of tenure be reconsidered without making allegations of any property?

A Yes, they have.

Q And is that—is that tenure being reconsidered at the present time?

A Yes, it is.

Q When will a decision be reached?

A I hope that a decision will be reached before the beginning of the spring semester but this is something in which I don't have absolute control.

So we are hoping to push for that.

Q Which two professors are those?

A Professor Rosoff and Porfessor Silver.

Q Now, with respect to Professor Bittman?

A Yes.

Q Has any such request been made?

A No, other than a personal request to me.

* * * *

[2316] DR. ISAAC BACON

called as a witness, having been first duly sworn in by the Hearing Officer, was examined and testified as follows:

HEARING OFFICER: Please be seated.

Would you please state your full name for the record?

THE WITNESS: Dr. Isaac Bacon.

HEARING OFFICER: Okay, Mr. Kramer.

DIRECT EXAMINATION

Q (By Mr. Kramer) By whom are you employed?
A Yeshiva University.
[2317] Q And how long have you worked for Yeshiva University?
A Since September—since the summer of 1959.
Q And in what capacity have you been employed by the University?
A As the Dean of the college.
Q You say as the Dean of the College, which college are you referring to?
A The Dean of Yeshiva College.
When we say the "college", we mean Yeshiva College.
Q You have been the Dean of Yeshiva College since 1959?
A That is correct.
Q What did you do before you came to work at the University?
A I was a professor at the University of Colorado.
Q In what field?
A German and linguists.
Q In addition to being Dean of the Yeshiva University for the period 1959 to date, have you also any other title in the school?
A Yes, I do.
I am a professor of linguists.
Q Have you actually taught courses at Yeshiva College?
A Yes, I did, once or twice a long time ago, I would say.
[2318] I didn't teach at the college, by the way, I taught at the Bernard Revel Graduate School.

* * * *

Q (By Mr. Kramer) Mr. Bacon, I show you Employer's Exhibit 110 marked for identification.
The document is entitled Yeshiva College Faculty, Fall 1974-75, is this the listing or exhibit that you have had prepared?

(Handing to the witness.)

A Yes, I did.
Q Now, let's turn to the headings which are underscored [2319] next to the letters, A, B, C and D.
What do those headings stand for?
A They stand for the four divisions of the college.
Q And I notice that next to each title which is adjacent to each of those letters, there are parenthesis with a name and designation, sermon.
What does that stand for?
A That is the name of the faculty member who is the elected chairman of that division.
Q Now, in addition to these A, B, C and D headings there are Roman Numerals with what appear to be subject matter by them.
What do those Roman Numerals stand for?
A They are subject areas which really—the faculty would be the departments, but we do not have a department structure in the college, so we refer to them as subject areas, and the divisions in that structure—the structure unit which comprises these various subject areas.
Q Is it correct then that you have subject areas within divisions in your college?
A Correct.
Q Now, you say that you do not have departments?
A True, we have no departments.
Q Are the subject areas sometime referred to as departments?
A Yes, in normal discussions we refer to them as [2320] departments.
Yes, they are defecto departments.

* * * *

[2337] Q (By Mr. Kramer) Now, Dean Bacon, will you tell us what your responsibilities are as Dean of Yeshiva College.
A The function of a Dean is to provide a vocational leadership and that is what I am trying to do, to the academic community of the college.

I am responsible to the Vice President—through the Vice President of Academic Affairs, as to the way the College conducts itself.

Q Subject to your supervision, to whom is the management of the College entrusted?

A To the faculty.

Q Are the students involved also?

A To a certain extent, yes.

Q Now, let's turn, Dean Bacon, to Employer's Exhibit 55, which is appended or a part of Board Exhibit 2 in this case.

(Handing to the witness.)

Q In this document which is entitled "Yeshiva University, Yeshiva College Faculty Status" still in full force and effect?

A Yes, with one—with one, of course, stipulation, [2338] which I think was noted last year also.

In paragraph three, Roman Three it is not in operation.

The document is in operation with the exception of item Roman Three.

Q Which is on Page 4 and 5?

A Right.

Q Entitled "Department" is that correct?

A That is correct.

Q Is that why you have told us that you did not have departments dejure in your college?

A That is correct.

Q Now, I show you Employer's Exhibit 56 in evidence, as part of Board Exhibit 2.

(Handing to the witness.)

Is that an up to date version of the constitution of the Yeshiva College Senate?

A I don't think so.

It is not.

MR. KRAMER: Mark this as Employer's 112.

(Whereupon, above referred to document was received and marked Employer's Exhibit 112 for identification, of this date.)

Q I show you Employer's Exhibit marked 112 for identification, entitled Yeshiva University, Yeshiva College, the [2339] constitution of Yeshiva College Senate dated September, 1974 in the right hand corner.

Is this an up to date version of the constitution of the Yeshiva College Senate?

A Yes, that is.

* * * *

[2342] Q Dean Bacon, do you attend faculty assemblies?

A Yes, I am a chairman of the assembly.

* * * *

[2343] Q (By Mr. Kramer) Dean Bacon, many of these committees appear to have the same name, not all, but many.

Are they, in fact, separate committees, one of the Senate and one of the Assembly or, in fact, are they joint committees where they have the same name?

A Well, they are not—they are the same committees. They are the same committees.

Q Would you explain that, please?

A Yes.

Well, I think they are some historical reasons for that.

The Yeshiva College faculty statute was written by the faculty, it took them almost ten years to work it out, and then when the Senate was brought into the governments of the College, the committees were simply transferred to the Senate.

So the committees that you have established by the faculty, in the faculty statute, are, in fact, the same as those in the Senate.

The only distinction, really, that one has to make is that originally these committees, as determined by the statute, did not have any student representation on them. [2344] Whereas on the committees that we have now, they have the same names and mainly the same functions, do include students on these committees.

Q To whom do the—I will call them the overlapping committees report?

A They report to the Senate and to the faculty, since

according to the statute the faculty has veto power over any decisions and solutions passed by the Senate.

So that the faculty committee that reports to the Senate and the Senate approves, then it still would go back to the faculty and would report there.

Q Dean Bacon, do any students sit in the faculty assembly?

A They do not—they do not have any voting rights, but whenever Senate decisions or Senate resolutions are discussed, at the faculty assembly, they are being invited to come, to participate.

They have a right to participate, but they do not vote in these matters.

Q Only the faculty may vote?

A Only the faculty may vote.

Q I—as stated in the constitution of the faculty assembly, is that right?

A Correct.

Q And the faculty assembly has a veto over the Senate, is that correct?

[2345] A Over the Senate resolutions.

We just vetoed one just two days ago.

Q Dean Bacon, have you veto over the faculty assembly?

A No, I don't.

In fact, I may add here that when the Senate was written in 19—in the summer of 1969, the student and faculty that were writing the Senate constitution, did include a veto power by the Dean and he declined to accept this, so it was stricken from the constitution.

Q So neither the constitution of the Senate nor the constitution of the faculty assembly, which is all the faculty statute, Employer's Exhibit 55, provided a veto for you, is that correct?

A That is correct.

Q And you, in fact, did not have such a veto I take it?

A No, I don't.

Q Is it then correct, Dean Beacon, that the faculty

assembly may direct action within your school that is binding upon you as Dean?

A Definitely.

Q Would you give us a few examples of how this could, come about?

A Well, I would presume that any kind of matter that is being taken up in a committee or in the Senate, and has [2346] been approved by the faculty or not vetoed by the faculty that as far as I am concerned, becomes the law of the College.

As a matter of fact, I find myself very often on opposite ends in Senate meetings where I vote against certain procedures, but once the Senate has approved it and the faculty not vetoed it, then I feel that I execute these —these regulations.

Q And the scope of the Senate is found in Article 2, on Pages 2 and 3 of Employer's Exhibit 112?

A That is correct.

Q And would encompass discussion and disposition of all matters submitted to it by the administration, the faculty, the student council and the Yeshiva College Alumni Association?

A Not the student council, students.

Q It says "student council".

A Oh, I see.

I am sorry, yes.

Q Is that correct?

A That is correct, yes.

Q Together with all of the other items listed in Section 1, Page 2 of Employer's Exhibit 112, is that correct?

A Student council matters would be brought before the [2347] Senate through its representatives on the Senate—by student representatives on the Senate, right.

Q And in addition, all of the other items in Section 1 would be for disposition by the faculty—by the Senate, is that right?

A That is correct.

Q And the faculty assembly, which is referred to in Employer's Exhibit 55, has the right to approve or disapprove action that the faculty Senate, is that correct?

A Not the faculty Senate.

Q Of the College Senate?
A That is correct.
Q And you have no veto over that faculty assembly at all?
A No, I don't.
HEARING OFFICER: I would point out for the record that Article 2, Section 3 refers to the veto power discussed in Mr. Kramer's—
MR. KRAMER: Of—
HEARING OFFICER: —of Exhibit 112, which has been discussed by Mr. Kramer, is that correct, Mr. Kramer?
MR. KRAMER: Let me just read it.
HEARING OFFICER: Go ahead.
MR. KRAMER: I think the Section 3 speaks for itself.
It refers to veto, but in a somewhat different [2348] context.
Q (By Mr. Kramer) Dr. Bacon, does the president of the University have the power to disapprove actions of the faculty assembly?
A Well, they all come—yes, he does.
But the fact is that the President has never vetoed any decisions of the faculty assembly, certainly not in my time and not to my recollection.
Q And you have been there for better than 15 years?
A 16 years, yes.
In fact—in fact, the president has never vetoed any of the—vetoed any the senate resolutions either.
There was one item that came to the president and he asked—although he had the right to veto it, he asked that the Senate reconsider this, its decision that it had reached and that is the way it was left.

* * * *

[2349] Q Now, Dean Bacon, that is—let us turn to the Committee on Curriculum and Instruction.
Is that committee referred to in both Employer's Exhibit 55 and Employer's Exhibit 112?
A Yes, it is.

Q Would you tell us what the function of the committee on curriculum and instruction is?
A Well, the committee—this committee receives all requests for new courses, which is forwarded to it by either the Senate or by the divisions, the various divisions.
Q And what happens to these requests?
A Well, this is really quite a protracted progress.
If a faculty member feels that he would like to add or create a new course, very often I initiate such courses [2350] myself and discuss it with the faculty members and get him or her interested.
They would have to take it to the department, and if the department approves it, it goes on to the division.
If the division approves it, it goes on to the curriculum committee and if—and if the curriculum committee approves it, it become a course in the college.
This is one way, this is one track.
Another track would be that a course is initiated in the Senate and in that case, if the Senate—if it is initiated in the Senate, it still has to go through the Department and then on to the division and, finally, to the curriculum committee.
Only there it has to return to the Senate for finalization.
Now, any course request or any course—any new course which is accepted and approved by the curriculum committee, technically, it would still have to be approved by the faculty.
What we have been doing is distributing the decisions of the curriculum committee to the faculty, and if there is no objection, that new course is then the new course in the college.
And, of course, if there are some objections by faculty, then I put it on the agenda of the next faculty [2351] assembly, at which time the faculty assembly decides whether the course is to be given or not.
There is another track which I think I ought to mention.
That is that I have the privilege, which was given to me by the faculty, to initiate courses on an experimental basis.

So that, of course, maybe introduced to the college without this—without following the formal track.

The only stipulation that these courses have, it must be brought before the department—I am sorry, I wouldn't introduce such a course if it is not introduced by the department, but it has to go then to the division and to the curriculum. committee.

If they are approved then, of course, the course becomes a legitimate course in the college.

If it is disapproved, it would have to be stricken from the schedule.

Q Have they, in fact, disapproved, Dean Bacon, of a course that you had initiated, or a program that you have initiated?

A That I have initiated?

Q Yes.

A I cannot think of one.

Q But they have the authority to disapprove?

[2352] A They have the authority to disapprove, right.

Q You testified that you have the authority to put a course into effect, I believe, for one term, is that correct?

A Yes.

Q Where did you get that authority from?

A Well, the faculty assembly accepted that, that the Dean should have the privilege.

Q In other words, the faculty agreed that you should have that authority, is that correct?

A Yes.

Q It was not given to you by the president of the University?

A No.

Q Or by the Board of Trustees?

A No.

• • • •

[2355] MR. KRAMER: Let's ask the witness.

Q (By Mr. Kramer) Dean Bacon, you say you have the authority to schedule courses for one term, not beyond that?

A Right.

I am only talking about experimental courses, I used the term "privileged".

Q A privilege you use?

A Yes.

Q Would you explain that to us, from whence that privilege comes?

A Well, I must say that—I think I could say that a number of courses which are now part of the regular Yeshiva College schedule of courses could have never become part of this curriculum if I had never utilized that privilege.

I think there is one person sitting right here at the table who is a beneficiary of this kind of privilege.

MR. SHECHTMAN: The witness is not answering the question.

HEARING OFFICER: I appreciate that, Mr. Shechtman.

Q (By Mr. Kramer) Dean Bacon, from whence does this privilege come?

A The privilege comes from the faculty.

MR. KRAMER: Now, Mr. Hearing Officer, that question [2356] on the record is not unequivocal, and counsel can cross examine, and I am asking whatever questions you like.

HEARING OFFICER: I am going to ask some questions, if it is all right with you.

MR. KRAMER: All right.

HEARING OFFICER: When you say this privilege is granted by the faculty, how did that granting come about?

Was it specifically stated that the Dean has the privilege to introduce such courses, or did you institute such courses and receive no objection from the faculty, or was it your institution of such courses ratified by the faculty, after the fact?

THE WITNESS: Well, if I would have to answer, where I could find anywhere in the minutes of the faculty assembly that the faculty is on record in doing that which you are asking, I think I would be—it might be different to find such an official approval.

MR. KRAMER: I don't think the witness is finished.

HEARING OFFICER: I am just trying to help him.

MR. KRAMER: You stopped him in a middle of a sentence, though.

HEARING OFFICER: Well, continue, Doctor.

THE WITNESS: But the fact is that in discussing it with a number of faculty members they felt that this privilege ought to go to the Dean, especially since I was the one who [2357] urged the faculty to write a statute that was actually my first act when I became Dean of Yeshiva College in the fall of 1959, to ask the faculty to write the statute, because I wanted a statute to be written by the faculty.

And when we established—and I felt that new courses should not be introduced and not be brought in by the Dean or by any administrator, but it should come from the faculty.

And, actually, I have given up a kind of authority which I will presume, although I did not know, was in the hands of the Dean before I came to Yeshiva College.

And the faculty found it quite helpful, because a number of faculty members actually benefited from the fact that I had a chance—that the college had a chance to bring into its schedule a number of courses, which, perhaps would not be on the schedule of courses today.

I don't know whether I am answering the question.

The fact is, that the faculty has never objected.

If you want to have this question answered directly, the faculty has never objected to my introducing courses on an experimental basis.

So I cannot be as positive as you would like me to be, whether it was officially instituted as a—enough to find its way in the minutes of any college—in any faculty assembly.

[2358] But there were never any objections raised to going with this procedure.

And, in fact, I was commended for going ahead with these, because we introduced a number of rather imaginative new courses, which were taught by two or three people.

Sometimes we had more faculty teaching the course than we had students in the class.

Q (By Mr. Kramer) Dean Bacon, does the faculty have the power to disapprove the continuance of these cources, experimental courses?

A Yes.

Unless it is approved ultimately by the division and the faculty committee, the course would have to go off the schedule.

HEARING OFFICER: Go ahead.

Q (By Mr. Kramer) And all full time faculty members are eligible to vote in the faculty and assembly, is that correct?

And all those others who, according to the statute have the right to vote.

Q Now, Dean Bacon, let us turn to the scholastic standing committee.

Would you tell us what the function of the scholastic standing committee, which is referred to in both Exhibits [2359] 55 and 112, is?

A Yes.

By the way, did I mention that there are students who are on that committee of curriculum and instruction?

Q Yes, the exhibit reflects that.

A The scholastic standing committee is a very, very important committee of the College, and it handles all requests from students for early graduation.

It handles requests from students for professional option.

It approves requests for honors projects.

It approves requests from students for requests for independent studies.

The scholastic standing committee is in charge of the scholastic standing of all the students in the college, but primarily students on probation.

The scholastic standing committee places students on probation and takes students off probation.

It deals with matters of probation, and there are quite a number of perimeters.

For example, a student on probation must not take more than one and a half credits in a semester, while he is on probation.

He may petition for one, two or three credits and the scholastic standing committee may approve or disapprove. [2360] They are not allowed to have any jobs, outside jobs.

The scholastic standing committee, again, will approve or disapprove such a request.

The scholastic standing committee decides on the academic dismissal of the student.

This means that if the student does not have—maintain a certain educational level, it has the power to ask the student to leave the college.

It deals with situations that come up before the faculty assembly.

Q Such as?

A Well, one such item which was on the agenda, that is faculty assembly, and unfortunately we had so much pressing business that we didn't get to it, was grading practices, something which I think is very much of concern to all educational institutions, the inflation of grading, of grades in the college courses by faculty.

And the matter was brought up in the assembly and the faculty assembly and the faculty assembly directed the scholastic standing committee to make a study of it and to preesnt its findings and recommendations to the faculty assembly.

It is probably going to come up, hopefully, at the next faculty assembly.

This is just one item.

[2361] Q Dean Bacon, a student who is dismissed for an academic insufficiency ceases paying tuition, does he not?

A Yes, he is no longer a student in the college.

Q Dean Bacon, a student—

A We would have no objection—we would have no objection, we would prefer that he continue paying, but there is not much of a chance of this happening.

Q We would join in that.

Dean Bacon, do many of your students work?

A A good number of the students, yes.

* * * *

Q If a student who is put on probation was precluded from working—

A That is correct.

Q And if that created financial difficulty, what would be the course for the college to follow?

A Well, the college, the scholastic standing committee, [2362] would still have to insist that such a person must not take a job on the outside, except when he makes a request and he can show a bone fide case, that perhaps his probation or his falling below standards was really not strictly academics, maybe health reasons or something of that sort.

Then the scholastic standing committee would approve it.

But unless the scholastic standing committee would approve such a request, the student may not take a job on the outside.

Q And might require financial assistance from the institution?

A Well, this is what I understand.

Q Well, Dean Bacon, is the premedical major an important one at Yeshiva College?

A Yes, it certainly is.

Q Would you explain that?

A Well, most of our students are interested in premedicine.

They want to go into medical school, and the situation has become more accessibated now where, really, in terms of career opportunities.

This is the best career opportunity besides law school and business school.

Q Are grading practices important to medical students?

[2363] A Yes, it is a matter of life and death.

Q Now, Dean Bacon, are the grading practices of your institution relevant, whether your school will be selected by pre-med students rather than other schools?

A This is a very important situation.

Q Why is that?

A Well, Yeshiva College has a record and I am glad to know that the faculty is on record, that we are interested in maintaining standards, which becomes more and more difficult as we look around us and find that the standards are being lowered all around us, and all institutions.

And I am talking about real outstanding institutions.

We have quite a number of them in the metropolitan area of New York, we insist on maintaining the standards and maintaining grades.

As a matter of fact, I have written a memo to the Albert Einstein College of Medicine, to the admissions committee, to inform them that while we are very much concerned about the tyranny of grading, we still feel that an "A" must mean an "A" and a "B" must mean a "B" and, of course, an "F" must mean an "F" as well.

That, of course, is a very serious problem, as far as attracting students to the college, because they can do much better in terms of grade averages by going to other schools.

[2364] And I don't want to mention other schools.

I think those you know the situation in the New York area probably can substitute a good number of schools, names of schools.

And so the competition for grades, I must say is very, very fierce.

Our students are very. very grade conscious and it is fantastic.

They will go through all sorts of contortions, programs, in order to avoid a faculty member who they know is a tough grader.

Q Who establishes the grading system in your school?

A Our faculty.

Q And the grading system is set forth in the catelogue, is it not?

A They are set forth in the catelogue.

Of course, it is determined by the faculty and it is in the catelogue, but I presume that any catelogue that you pick up will have the same description of grades.

But it does not mean, really, that the faculty will follow it.

Whereas in our case, a good number of the faculty feel that they have to follow the standards of grades.

Q And the grading system in the level of marking is relevant in the students' selection of schools and otherwise?

[2365] A Not only the school, but otherwise.

Q In the selection of schools?

A Absolutely.

Q And the university service tutition is tied up, to at least a certain extent, to the type of grading system that is involved?

A Absolutely.

MR. SCHACHTMAN: I object to the leading of the witness to a conclusion.

HEARING OFFICER: Sustained.

Q (By Mr. Kramer) Is the grading system, since we can't lead, or is the grading system not relevant, one way or the other, would you please answer, as to whether students select your school over another school?

A Well, I would have to unequivocally say that the grading system is a very important indication, as far as students selecting Yeshiva College is concerned.

Q Now, Dean Bacon—

A In fact, I think I can go a step further.

I can state that a number of our students who—I think I must phrase it a little differently.

We had for many years, and I am going back, let's say ten—a decade ago, we had a very low, what we call attrition rate which was much, much lower than that of practically any school in the country.

[2366] That attrition rate has risen considerably and —well, to our concern, very high.

Especially, students having been with us for a year or two years, may—many of them decide to go to Israel and when they return, they somehow don't return to Yeshiva University.

We have definitely determined that it is because of the grading practices that we have at the college.

Q Does the president of the institution establish your grading practices?

A The faculty establishes the grading practices.

Q No one else, I take it?

A No.

HEARING OFFICER: How have you determined that these people who have left the school have not returned because of the grading practices?

THE WITNESS: Well, we are very much concerned about it and we are trying to find out why they are not coming and we have determined two things.

They say, "We can get an easy three point eight, three point nine, and today you must have that kind of an average in order to get into a good medical school, and we can get that by going to another school where we are competing with a different type of student, and we don't have to put up with the tough grading that is being given [2367] in Yeshiva College."

This is one aspect.

There is another aspect, by the way, which really does not bear here.

We have, for example, we insist on a residence requirement of practically four years.

You notice that I mention that the scholastic standing committee has to approve any requests for early graduation, which means for graduation before completing four years.

We still insist upon it, whereas many schools in the metropolitan area do not insist upon the residence requirement.

This is one of the reasons why I—why our students are not coming back to Yeshiva and, of course, that means again, less funds as far as the college is concerned.

HEARING OFFICER: Could you explain "residency"?

THE WITNESS: Residency means that we expect the student to be eight semesters in the college.

HEARING OFFICER: Resident at the University?

THE WITNESS: They have to be eight semesters in a college level.

In other words, normally, colleges normally have a credit requirement, in addition to other requirements, like major requirements.

[2368] I think the City University is 120 credits.

We have 128.

HEARING OFFICER: 124.

THE WITNESS: Well, anyway, we have 128 credits, but this is not enough.

In other words, in addition to the 128 credits and in addition to the other requirements that are normal in an academic institution, we also require our students to be eight semesters in the college.

And I might say that that was definitely passed by the faculty assembly, and we have the minutes.

Q (By Mr. Kramer) Not by the Board of Trustees?

A No.

Q Not by the President of the institution?

A I think I made my position very clear.

Q They were the only ones, right, Dean Bacon?

A Right.

• • • •

[2369] Q (By Mr. Kramer) Would you tell us what the functions of that committee are?

A Student activities judiciary committee?

Q Yes.

A Well, I must say it is a rather inactive committee because this committee, and I would say thank God, because this committee could only take up matters where a student through his student activities, is being taken to that committee, either by faculty or by administration or by a fellow student or by an alumnus.

Q In other words, this committee meets particular needs, is that correct?

A They only meet with when somebody asks that the committee take up a matter against a student.

Q Would you give us an example of a matter that this committee has taken up?

A It was just a long time ago that the committee met.

I remember one case, it was a very—well, unhappy case where a student who was the editor of a literary magazine [2370] and a professor of English was the advisor, the faculty advisor to that magazine, and in accordance with the regulations then, certainly, the student was supposed to consult with the faculty member about the publications of the magazine.

And he did, and the faculty member objected to something.

I forget now what it was, it was many years ago.

And while he didn't react in anyway to it, he just went and published it over the objection of the faculty member, and this was brought to the judiciary committee, if I remember correctly and the judiciary committee decided to strict the student of all honors, although he was a 3.9 student, I think.

He was a physics major.

I remember a very bright student, and, of course, that recommendation was brought before the faculty and the faculty approved.

Q Was it within the power of that committee to recommend the termination of a student or expulsion of a student, assuming the offense is grave enough?

A I assume that this committee has all these—has all these perrogatives.

It is a therothetical one because it never occurred, it never happened.

[2371] And, yes, the faculty would have to sustain it.

Q The faculty would have a right to pass upon that recommendation?

A They would sustain it and pass upon it, and, of course, if the faculty approves it, the student would receive a disciplinary—a dismissal from the College.

Q And the College would lose the revenue from that student?

A Of course.

Q Now, Dean Bacon, last week did you have a matter that would fall potentially within the perview of this committee?

A Yes.

Q Tell us about that?

A I received a call from an Alumnus who is now at the Albert Einstein College of Medicine, a student there who called me up very distressed that in the pages of our student newspaper he, as he said, was maligned.

He asked me to do something about it and I told him I don't interfere with the—with the publications of the student newspaper.

But I told him that I would have the privilege of taking the student, as an Alumnus, to take the student before the judiciary committee, and I told him that if he was going to initiate action in writing, that I certainly [2372] would be very glad to do so.

Of course, the judiciary committee would have to be called into action.

But to the best of my understanding, nothing has happened since that time.

I think it was Monday or Tuesday and nothing has happened since that time, so I feel the matter has been dropped, or I don't know—

Q Is it within the perview of the committee to deal with matters of this type?

A Oh, yes.

Q And to recommend discipline or termination, should that be required under the situation?

A Well, yes.

Q Now, the faculty assembly has a committee on committees, does it not?

A Yes.

Q What is the function of the committee on committees?

A The committee on committees actually canvases faculty in regards to these committees that faculty would like to serve on, and presents a slate at the appropriate time before the faculty assembly.

The faculty either votes or makes its own admonition but actually the recommendation of the committee on committees is being voted on in the faculty assembly.

[2373] Q Will you tell us what the committee on agenda does?

A The committee on agenda just approves the agenda for the committee.

Q And there is a faculty welfare committee, is there not?

A That is correct.

Q And a faculty library committee?

A Right.

And many—

Q Is that correct?

A Yes.

Q Now, in addition to the committee—

MR. SHACTHMAN: Excuse, me. The witness was in the middle of an answer when he was interrupted by counsel.

A (Continuing) I just want to say that many wonder that students would be on the welfare committee, but they are.

Q Thank you, Dean Bacon.

• • • •

[2374] Q (By Mr. Kramer) Dean Bacon, in addition to the committees that are listed on Employer's Exhibit 113, is there a promotion policy committee of the faculty assembly?

A Yes.

It is an ad hoc committee which was voted in by the faculty which—which was charged to, originally, to establish criteria for promotions, and from time to time to recommend changes in that policy.

Q Recommend to whom?

A To the faculty.

Q And is that a functioning committee?

A That is a functioning committee.

Q And the promotions that are being governed are promotions within the school, is that correct?

A Within the college, yes.

Q Yes, within the college.

Is there an ad hoc committee on tenure criteria?

A Yes.

That committee was actually established very recently in response to a report and a request by the State Education Department to all institutions—post secondary institutions in the State of New York.

It was presented to the faculty assembly upon the recommendation of another committee, the committee of [2375] senior faculty members.

The faculty voted such a committee, and, as a matter of fact, that commitee met for the first time yesterday.

Q What was the committee meeting about?

A The committee is to establish criteria under which faculty members will be recommended for tenure.

HEARING OFFICER: Excuse me, Dean Bacon.

You mentioned a committee that recommended formation of the tenure committee? A committee of senior faculty?

THE WITNESS: Right

HEARING OFFICER: That committee is not listed.

THE WITNESS: It is another ad hoc committee.

HEARING OFFICER: It is an ad hoc committee?

THE WITNESS: Yes.

MR. KRAMER: That committee is not listed and that is why we are dealing with them in this fashion.

HEARING OFFICER: Go ahead.

Q (By Mr. Kramer) Is the promotion policy committee made up only of faculty?

A The committee on—

Q Promotion policy.

A The committee on promotion policy, yes.

Q And is the committee on tenure criteria made up only of faculty?

A They are.

[2376] As a matter of fact, a meeting was called yesterday by me and I simply looked that they would organize themselves, and as soon as they established a chairman and a secretary, I withdrew and asked them to deliberate on their own.

Q Now, Dr. Bacon, let's turn to the divisional structure of the college.

You have told us that the division chairmen were elected, as I recall.

A Yes.

Q When did this election or these elections, as the case may be, take place?

A It took place a long time ago.
Q Approximately how long?
A I am under oath, I really don't know whether I could be very exact.
I would really be guessing.
Q Well, I don't want you to guess.
If you can think and try to come up with an approximation, but a mere guess or a surmise—
A All I can say is several years ago.
Q Would you tell us what function or functions the division chairmen performs?
A Well, the first function, the immediate function is, of course, to call meetings of the division.
Remember, the division is a unit that comprises a [2377] number of subject areas or departments, as we might call them in short.
The purpose of the meetings may be many fold.
One of the most important ones are in—to deal with new courses that have been recommended by either the department or by the committee.
They may, they have to decide upon, oh, whether credits may be increased.
In other words, if a course is a two credit course, if it is a two credit course and they want to increase it to a three credit course, or they want to decrease a two semester course to a one semester course, with basically the same syllabus that would be within the perrogative of the division, and the division chairmen would call a meeting for that purpose.
So that is one thing, to call the meeting of the division.
Division chairmen also sit in various councils.
They sit with the Dean in the advisory council.
The advisory council of course, has some very important functions for the faculty to determine and deliberate on.
Q Let's turn to that advisory council, Dean Bacon.
Would you tell us who make up the advisory council of Yeshiva College?
[2378] A The advisory council, as I indicated, consists of the four division chairmen.

Q Anyone else?
A And myself the Dean.
Q Anyone else?
A No.
Q Would you tell us what the important functions, I think you referred to them that way, of the advisory council are?
A The advisory council deliberates on requests for promotions, and it deliberates on requests for sabaticals.
Q Now, would you tell us the role of the division chairmen with respect to, first, with promotions and then sabaticals?
A Well, if a faculty member feels that he is justified to be considered for a promotion, then very often he will come to me and I will tell him to write a letter to the chairman of his division and to give the reasons why he thinks he should be promoted.
The division chairman—by the way, I also ask them to send me a copy too, because I want to be sure that no faculty member is overlooked by a mistake or any other reason.
The division chairman would then at the meeting present that request, with a recommendation.
[2379] The advisory council would then deliberate on the merits of the recommendation and the merits of the request and made a decision, which could be positive or negative.
If it is positive, then I would carry the recommendation to the president.
If it is negative, I would carry the recommendation to the president.
Q Now, you have told us that the division chairmen make recommendations when a faculty member seeking a promotion comes before the advisory council.
In addition to the proposal—
A To the proposal, yes.
Q —when that recommendation is positive, favorable, what form does it take?
A In regards to—
Q To promotion?
A By the chairman?

A Yes, by the chairman.

A He would present it and he will give reasons why he feels that the person should be promoted and try to by good democratic procedures, to convince the other members of the advisory council that they should vote for such a promotion.

Q Now, when the chairman is against the particular promotion, what form is used to demonstrate that?

[2380] A Well, he would present it, he would merely preesnt it and he will not make the glowing recommendation that the rest of the advisory council should approve it.

In other words, he would simply make the presentation and it would be discussed, and depending on how the rest of the members feel about it, the decision is going to be taken to the president.

Q Now, when the department chairman suggests a negative judgment in the fashion you have just described—

A There would not be many cases of that sort.

Q In those cases, what was the reason—the result?

A The advisory council did not recommend promotion.

Q Now, in those cases where the chairman made a favorable recommendation, in addition to the proposal, where it was his judgment, generally, and I am not saying always but generally, it was accepted by the advisory council?

A Generally, yes.

Not always, but generally, yes.

* * * *

Q (By Mr. Kramer) Dean Bacon, has the advisory [2381] council voted to recommend a promotion that you were against?

A I think you will tax my memory.

I really don't know if I could respond to that.

I can say that there was once a recommendation by the advisory council against a promotion, where I felt a promotion should be given.

This case only occurred quite recently.

Q And that promotion was not given, is that correct?

A That promotion was not given.

Q Now, let's turn to sabaticals—

A I am sorry, I think I have a very definite case of a person whom I felt should not be recommended, and the advisory council recommended it.

As a matter of fact, if I remember correctly it was a vote of three to one in favor of promotion.

And this person was promoted by the president.

Q That is in addition to the recent case you have just mentioned to us?

A Yes.

The recent case was just the reverse.

Q Would you tell us about that, so that the record is clear.

A The recent case is where the faculty advisory council was opposed to a promotion, where I felt for various reasons that the person should be promoted.

[2382] I was trying to persuade the advisory council to change their position on this matter, but the advisory council, I must say in retrospect, I think that they were wise in doing what they did, and acted properly.

I must say that this person was not promoted.

It created a tremendous amount of havoc in the college, by the way.

Q Now, that you have said "created a tremendous amount of havoc in the college", would you explain that, Dean Bacon?

A Yes.

The students, we had a tremendous amount of uphevel in the college caused by the students, which I foresaw.

Q Nevertheless, the decision of the advisory council stood?

A That is correct.

Q Is that correct?

A Yes.

In other words, the important is that the president did not feel—he did not feel that he would want to overrule the recommendation of the advisory council in that respect.

In other words, the president has never overruled, whether it was positive or negative, the recommendation of the advisory council.

[2383] Q The advisory council was created—who created the advisory council?

A By the faculty.

Q Now, would you tell us about how sabatical leaves are handled in the advisory council?

A Well, in a similar fashion.

A faculty member—at one time or another, by going over the listing of the faculty, and when I send out a list to all members of the faculty indicating—I am sorry, I have to correct that.

I send a list to all members who are qualified to apply for sabatical, which is established by our University faculty handbook and to apprise them of the fact that they are eligible for a sabatical, if they have a project and if they desire to have one.

And if they do feel that they would like to have one, they would—they are advised ot send a letter of request to the chairman of the division, with a copy to me, and it is being discussed in the same way as the promotion.

In other words, the person makes the recommendation makes the presentation.

The chairman of the divison makes the presentation with his recommendation, and then the advisory council makes a decision which I then take to the president.

Q Are the recommendations of the chairman generally [2284] accepted by the advisory council?

A Generally they are accepted, yes.

Q And has the president overruled any of the determinations of the advisory council re sabaticals?

A Never, yet.

Q By the way, Dean Bacon, with respect to promotions does the faculty member have an appeal channel open to him?

A Well, we have a University review committee which is a committee consisting of elected faculty members from all the schools of the University.

* * * *

[2386] (By Mr. Kramer) Now, in addition to being division chairmen, are all of the division chairmen also senior faculty members?

A Division chairmen are senior members, right.

* * * *

[2387] Q Now, in addition to the four division chairman who are also senior professors, or as you call them senior members in particular subject areas, there are other senior professors or other senior members and in still other subject areas, is that correct?

A That is correct.

[2388] Q Are these senior professors or senior members also referred to in the parlance of everyday speech of Yeshiva University as chairmen of the department?

A Yes, we talk about them as chairman of the department.

HEARING OFFICER: As noted there are senior professors, chairmen of the divisions.

Is there a requirement that to be a chairman you would have to be a senior professor or is this just coincidence?

THE WITNESS: No, they were elected by the faculty.

They were elected by the faculty.

Q (By Mr. Kramer) Are the senior professors or the senior members, right now I am talking about the division chairmen who happen to be senior members or senior professors, are the senior members or senior professors in each of the department also elected by the members of that department?

A No, they are not.

Q How are they established?

A Well, I will have to say with the one exception of in English, it is the person who has served in the department longest, in terms of years of service.

HEARING OFFICER: What is the discrepancy in the English Department?

THE WITNESS: I think there was simply an agreement in the department that they would have the oldest member in [2389] the department who is Dr. Linn, but by one reason or another I must say I do not know because it was before my time, Dr. Fleisher was considered,

and has continued to act as the senior professor in the English department.

Q (By Mr. Kramer) But otherwise it is the senior professor in the particular subject matter area?

A Right.

Q Now, would you tell us what role the senior members have, if any, in the hiring of full time and part time faculty members?

A Well, he certainly has a very important role in that area.

If it is determined either by the Dean or by the senior member that an additional faculty member might be necessary, then I would ask him to look around, to look over letters of recommendation—letters of applications, and find those whom he would, or she, by the way, would like to interview, and tell him that if after the interview he finds that that person would be a good addition to the college, then I would ask him to bring that person to my office.

At that time I either interview him myself or together in the presence of the senior member.

We then, after the interview, make a determination whether this person should be added to the faculty.

[2390] Q When you say, "after the interview we make a determination—" what do you mean?

A Well, the senior faculty member and myself.

Q How do you go about doing that?

A Well, he tells me—after the fact that he even brought him to me for an interview, that indicated that he finds him acceptable, and then I would like to interview him.

There are all sorts of considerations that have to be taken into account.

Very often we like to withdraw two or three or four people before we made a decision.

A decision is made, basically on his recommendation, on which of the people would be the best one to follow through on, and that is what we are doing.

Q Dean Bacon, in the over 15 years that you have been Dean of Yeshiva College, have you ever appointed

a full time or part time faculty member over the objection of a senior member?

A No, I did not.

Q During the 15 years, over the 15 years that you have been Dean, have you appointed people on the recommendation of senior members of whom you had independent doubts?

A No.

You are taxing my memory, 15 years is a long time.

[2391] MR. KRAMER: I withdraw that question.

THE WITNESS: I am sorry, what did you say.

MR. KRAMER: I withdraw that question.

HEARING OFFICER: While we are on the particular subject area, have there been occasions where a professor has—a professor has recommended or a chairman has recommended that you hire someone, where you haven't hired that person?

THE WITNESS: That is exactly what I said, I never—

HEARING OFFICER: That is not it exactly.

MR. KRAMER: Say it again, Mr. Hearing Officer.

HEARING OFFICER: Have there been people recommended by the chairman who have not been hired on your decision, whether that decision takes into account financial or other aspects of the Yeshiva College?

THE WITNESS: Well, we have never come to this position, because when we discuss the matter, we take into consideration all sorts of factors and we come to an agreement.

And if the agreement is reached between the senior faculty members and myself, that we ought to go ahead, with adding a new faculty member, we follow the procedure which I outlined to you.

That means, then we go ahead with the recommendation of the faculty member.

There is one interesting case, perhaps, which I might [2392] bring in here, where I—where a person was recommended because of a certain situation which has happened now recently, and you probably know that I said in the case of Dr. Levine, who has been the senior faculty member, and I must say legally he is still the

senior faculty member of the chemistry department, but we have now a University chemistry department and the chairman of the department who is a member of the Belfer Graduate School, recommended a part time person to teach in the college.

I asked Dr. Levine about his position, and after looking into the record, he opposed the appointment of such a person.

I sustained his position.

And I must say I sustained it even over the objection of Fishman, the chairman for academic affairs.

Q (By Mr. Kramer) Dr. Bacon, do you generally accept the recommendations of the senior members as to who should be hired?

A Yes.

Q Could you tell us, if you know, Dean Bacon, how much time do the senior members spend in the hiring of part time faculty, during a particular academic year, if you know?

A That would be very difficult to determine, because some department, of course, are much more involved and some [2393] are less involved by reason of the fact that the student population in the various areas.

I would have no indication of how to determine.

Q It would be determined, would it not, on the number of part timers to be hired?

A Yes.

Q The number of candidates to be interviewed?

A That is correct.

There is another thing, for example, the subject matter.

We get hundreds of applications for positions which are forwarded, sometimes they are, of course, coming directly to the chairman of the department—to the senior faculty member.

Sometimes they come to me and I channel them back to the senior faculty member.

These people not only read these recommendations, although, for example, in English, let's say, we may be getting a hundred—it could be more, it could be a little less in a semester, and inspite of the fact that we are at this moment not considering any additions, certainly

not full time additions, possibly part time, but the chairman, Dr. Fleisher, looks through all of these letters and makes notations in terms of qualifications and which must take quite some time, quite a bit of his time.

[2394] But to determine how long, I think it would be very difficult for me to determine.

Q Dean Bacon,—go ahead.

A I am sorry.

Q Dean Bacon, how is it determined whether you will or will not reappoint—

A I just wanted to talk about that.

Q —reappoint an, either a full time probationary faculty member or a part time faculty member?

A Yes.

I wanted to add to that, not only are such decisions upon appointments made with the senior faculty members, but decisions about reappointment and disappointment are also made with the senior faculty.

Q Would you tell us about that, please.

How are the decisions made not to reappoint a full time faculty member or a part time faculty member?

A Well, basically, of course, it is a matter that at a certain time I would get together with the senior faculty member and we will go over the various non-tenure faculty, because in the case of the tenure faculty, there is no question about that.

But in the case of non-tenure faculty, all full time faculty and part time faculty we will go over the list and I will ask him his opinion about the—about the quality [2395] of the person and how he, what contribution he is making to the department and whether he should be reappointed or not.

And on his recommendation, decisions have been made of reappointing him.

Or in cases, of course, in some cases of disappointing such a person.

Q Now, do you generally, not always, but generally accept the recommendations, both positive and negative, of your senior members?

A I could almost say not generally, but always.

Q Is that so with respect to part time faculty?
A With part time faculty as well.
Q And with respect to full time faculty—
A Full time non-tenure faculty.
Q Do you know how much time senior members spend on the appraisal and recommendation process with respect to the non-appointment or reappointment or disappointment of probationary part time faculty?
A I would have no way of determining it.
Some faculty members take it very seriously and they go about it in a very thorough manner.
Sometimes even sitting in in some of the classes, and in some other cases it is perfunctory, but I have no way of determining.
[2396] But it is taken seriously.
Q The quantity of the time spent in the exercise of this authority would depend, would it not, on the number of part time reappointments or disappoints involved?
A That, of course, is understood.
Q Is there an ad hoc committee of senior members Dean Bacon?
A Yes.
Q Tell us about that, if you would, what it does and how often it meets?
A Well, this committee—
Q How is it constituted too?
A This committee is really at my call.
It is a committee of—I might call it ex officio.
Every person who is a senior member will sit on that committee, and whenever I have any problems where I feel that I need advice from them, I would ask them to come to such a meeting and discuss whatever I need advise on.
They meet very irrelgularly.
For example, this semester they met only three times.
Q And last year, would you give us a feel for how many times they met the last academic year, '73-'74?
A I think five or six times.

* * * *

[2398] HEARING OFFICER: Yes.
I have one question, do the chairmen receive any additional stipend because of their position?
THE WITNESS: No.

* * * *

[2432] Q (By Mr. Kramer) Dr. Bacon, I believe we left off our questioning last time with the subject of the Ad-hoc Committee or the committee as it's called of senior members at your university.
Could you give us some additional examples of matters that are dealt with by that committee or have been dealt with by that committee?
A Well, we had—the committee we dealt in that committee we dealt with a number of problems which are important for the college.
For example, we had to make a decision being concerned about the fact that many of the high schools seniors are being accepted to schools—to colleges and we had to make a decision of what to do in regards to our own situation.
We have a high school as you know, and the problem arose that will happen with the seniors in our own high school.
I presented this problem to the senior members, I made it one item on the agenda, and it was unanimously—it was a unanimous decision of that group that we ought to establish what we call now a co-op program whereby we would allow high school seniors from our—from our high schools who maintain or showed certain standards to admit him to the college, not as a college student, not [2433] as full-time college students but they would remain high school students that would be permitted to take courses in—in the college.
This is the coop program now, and it's now—has been in operation now for one semester and it's going to be an item placed on the faculty assembly in about two weeks from tomorrow to explore and find out whether changes would be in order, whether we should continue or we should discontinue it.
That is one such item that was discussed.

Q Dr. Bacon, is there competition today between colleges for entering students?

A It's brutal.

Q Is Yeshiva College affected by that competition?

A We are very much affected by it.

Q Would you tell us about that?

A Well, I don't know to what extent I want to go into it.

I don't want to mention names of colleges around Yeshiva College our college.

Q That was not the intentment of my college that you mention names but if you choose to, fine.

A But the new programs that have been established, especially the City University, is one such important consideration in—in the competition for students [2434] that we have to face.

We have—the one that I just mentioned with juniors and we hear now even sophomores have begun to be accepted by some of the schools in New York.

We have been—we have been approached by a number of Jewish high schools whether Yeshiva College would want to enter and give programs right at the high schools and it was decided we are not going to enter into this picture although it might help us quite a bit in attracting sophomore students.

The only decision that was made is to make exceptions for our own high schools and that's what we are doing right now.

Q Now, does that have a financial impact on the university?

A Well, students, of course, has a definite impact, financial impact on the university.

Q Would you explain to the Hearing Officer how that comes about?

A Well, a student—a student brings in tuition, a student brings in money for living in the dormitory.

A student brings in money for untilizing our cafeteria, and I must say that I don't know exactly what the figure is but the figure was quoted several times, at the moment we lose a student we lose a substantial amount of money

per student, and—and any student who doesn't come, this [2435] is a loss to the university sustained, financial loss the university sustains.

Q The decision to implement the coop programs was made by you and senior members?

A Senior members.

Q The decision to retain that program will be made by factulty assembly?

A Further ramifications will be made by the faculty.

Q I think you told us previously you felling that you are bound by faculty assemblies action?

A I must say that I was very reluctant to bring this program, I am very much—I think that all of us are, faculty is very concerned about maintaining standards in a sea of colleges and universities that have decided to water them down all around us, and I must say I—that I am very gratified to find the faculty feels that way and I must say that I was not—I just presented it as a possibility, and the faculty—the—that committee unanimously decided that we should go ahead with this program.

Q You told us in your earlier testimony a few minutes ago that you decided not to provide the coop program for high schools outside of the university family so to speak.

Would you explain how that decision came about?

[2436] A Well, that—actually—it—

Q As best as you can recall?

A It simply—it was not brought up. We simply didn't go beyond that.

At the faculty—at this senior meeting this matter was explored and we decided at this moment to only go with our own high schools.

So at this moment I don't think there is anything else that I can add to—that I can add to the problem.

Q In other words, the decision was reached by the senior members and you?

A By the senior members, right.

Q Now, would you give us, Dr. Beacon, if you can, another example of the kind of thing you have dealt with at the senior members meetings?

A Well, the one that comes of course to mind is the one that he had only recently which was in response to the document which I—which I mentioned at a previous testimony and that is the—the report by the State Education Department which two very important items were brought up which had some—which will have some very serious affect upon the operation of the college.

One, that new programs and possibly at a future date existing programs will be approved by the State Education Department only if they are competency based [2437] and not as we have it—had it until now simply by students passing certain courses, credits and what have you.

Now, this of course because of the ramifications that it will have on the future operation of the college I presented that aspect to the senior members of the faculty, and we have left it open for further discussion because we really didn't quite understand what the State had in mind when it spoke about competency oriented programs.

We could see a competency oriented program possibly in physical circumstances or in mathematics, in foreign sciences, but we could not understand what it would mean in a case like philosophy or what it would do in English or in French or what have you, so I was asked to explore these aspects and I now have collected the document which I am sending on to all members of the senior faculty and I informed them that we will—we will discuss—that's going to be a matter to be discussed at a future committee meeting, meeting with the—with the senior faculty.

Another item which appeared which has some ramifications, not only for the college but for the entire university, has to do and I also mentioned that in passing before, it has to do with the—with guide lines for—[2438] for tenure.

Guide lines under what circumstances tenure will be recommended for a faculty member which up until now

really didn't exist, and the State Education Department indicated that they will require the university to report to the State Education Department what these guide lines, the university guide lines were.

So obviously what I did is presented this to the—to that committee and the committee decided that it should be brought before the faculty assembly, that the faculty assembly or to recommend it to the faculty assembly that a committe be elected by the faculty assembly to work on that, and that was actually done and I—I think one of the Ad-hoc Committees that I talked about last time as a result of that—of that decision made by the senior faculty, it was presented to the facutly assembly, the faculty assembly elected the members of that committee and—without stipulation who should be the chairman or not so I simply took the initiative calling such a committee, asked them to constitue themselves, elect a chairman and left them to their own devices to do what they want.

Q Now, Dean Bacon, do you have an assistant dean?

A Yes, I do.

Q What is his name?

[2439] A His name is Dr. Wischnitzer.

Q Putting aside Dr. Wischnitzer, do you have any other assistants who work for you—

A Well—

Q —other than a secretary?

A I would say not.

Q Would you tell us as best you can what Dr. Wischnitzer does?

A Well, Dr. Wischnitzer was primarily appointed as the person who would be in charge of the—of the premed program which is a—the strongest program in the college the largest—the largest continuing agent of our students who come to Yeshiva College come as premed majors, and we felt that it would be very important that we have a person who would not only be in charge of the program which of course means that whatever he does is by approval of the faculty, but that he—that he, for a tough premed program which is probably the toughest we have in the college and so this is basically—that

was the—that was the initial appointment under which Dr. Wischnitzer was brought to the college.

He has had—he came to Yeshiva College from a—from a medical school, from Flower Hospital—from Flower Medical School.

In addition, since he has the—the administrative [2440] position of an assistant dean, he is also in charge of some such jobs as collecting the—the classroom—excuse me, the class assignments and hours for the schedule of courses, he collects them at one time or another, about this time for example, he would send a memo to all senior faculty members asking them to—to let him know what courses would be offered in each department or subject area for next year, and time assignments, faculty assignments and he simply collates it and then we put it into the schedule of course.

He also is in charge of collecting and collating faculty publications which we publish once every five years.

Q Does he teach anything?

A He teaches, yes.

Q What does he teach?

A He teaches one course per semester.

Q In what subject?

A In Biology.

Q As a medical doctor?

A He is not a medical doctor, no, he is a biologist.

Q Does Dr. Wischnitzer efforts—do Dr. Wischnitzer's efforts have any affect on the number of students—undergraduate students, that is, that your school is able to place in medical school?

[2441] MR. SCHECTMAN: I object to the form of the question.

MR. KRAMER: I withdraw the question.

Q (By Mr. Kramer) What effect if any does Dr. Wischnitzer's efforts have on the ability of the college to place students in medical school?

A He has an important affect.

Q Would you tell us about that, please?

A First of all, students know that we have such a program and that we have such a man who is very,

very effective, has done—worked out a very efficient way of maintaining records right from the freshman year of the students and the students of course know about that and I must say that we have been—we have been very—in a very good position to and have had a very high, almost incredibley high acceptance rate of our premed majors to—not only to medical schools but good medical schools in the country.

Q Does Dr. Wischnitzer also deal with medical schools to coordinate programs with them?

A No, he does not.

Q What dealings does he have with the medical schools?

A Well, he delivers the recommendations which is one important thing and the collation of letters of recommendation from faculties, from faculty members, and an assessment, in other words, an evaluation of each student which goes along [2442] with these letters of recommendations to whatever medical school a student applies.

Q Does the health or lack of health of the premed program have an affect on the finances of the university?

A I didn't quite understand that health?

Q Or lack of health, either way?

A What is health?

I am sorry.

MR. KRAMER: Withdraw the question.

Q (By Mr. Kramer) Does the functioning of the premed program have an affect on the financing—finances of the university?

A Oh, I think it has.

Q Would you tell us about that?

A Well, if students know that they have a good chance and let's say that they in spite of the fact that we have this tough graduating situation in the college and that we are on record of maintaining standards, and the fact is that students know that if they can survive that they have a good chance of being accepted to a medical school, to a good medical school and that will of course, attract them.

Q Now, you told us a few moments ago, Dr. Bacon, that one of Dr. Wischnitzer's many functions is to counsel students to drop the premed program?

[2443] A That's right.

Q Does that have an affect on the finances of the university?

A It definitely has because a number of students as I said, the largest amount of students that come to Yeshiva College come with intentions as premed majors and if one compares the amount of students who came in with that intention and the amount of students who actually remain to the bitter end as premed majors, there is a definite differential there which is quite obvious.

Q Would it be correct to state he establishes policy in this area?

A No, no, I don't think it would be correct to say that.

Q What does he do in this area?

A Well, he has—he is simply—he is simply guiding the students.

He is simply guiding the students to do and follow the decisions that are being made by the faculty in this matter.

Q How many—approximately how many faculty members, full and part-time work at your college?

A We have about—we have about—we have 36 full-time, 40 part-time and 40 which we consider Yeshiva University full-time, Yeshiva University faculty.

* * * *

[2444] Q (By Mr. Kramer) Assuming, Dean Bacon, that the Board were to find that the senior members, division chairmen and your assistant dean are not supervisory and/or managerial employees, you then would be the only supervisor in that college, is that correct?

A That's correct.

* * * *

[2454] Q (By Mr. Kramer) Dr. Bacon, do you have departmental advisory committees at Yeshiva College?

A We do.

[2455] Q What is a departmental advisory committee?

A Well, that was a matter discussed and decided on in the senate, and not voted by the faculty.

I really shouldn't put it in the negative sense.

It was approved by the faculty overwhelmingly, that each subject area or each department where we have a majority of a committee appointed by the senior faculty member consisting of two faculty members and two students would—who would meet from time to time and review the programs in the department and make appropriate recommendations.

Q Some of the departments as a matter of practice have more than two faculty members?

A Yes, well, this is the minimum we expect.

In some cases we can't even have them any more because there is only one—a one man team, I think in classics more than one is there—yes.

* * * *

CROSS EXAMINATION

[2456] Q (By Mr. Schectman) Dr. Bacon, you defined the full-time load of faculty at Yeshiva College as 12 contact hours [[2457] or its equivalent, did you not?

A Correct.

Q Could you give us—could you define what you mean by equivalent and give us some examples of how that is used at the college?

A We have an executive secretary of the scholastic committee and by agreement it was determined that the he will do any work as a scholastic—as the executive secretary of the scholastic committee, that he will—that his load will be considered as nine hours and the three hours normally he would go into teaching would become —would be the equivalent of that—of the work that he is doing as such—in that case.

Q You said it was agreed, it was agreed between—

A We talked. We discussed it and he felt that would be a nice way of handling it.

Q And it was agreed between that individual and yourself?

A That's correct.

Q Do you normally define or come to agreement with individual members of the faculty as to determining their equivalent status for full-time definition?

A There are only two faculty members in the college who are in that category.

Q Who is the other?

[2458] A Dr. Wischnitzer who was determined as the assistant dean.

Q And was the definition of his equivalency likewise arrived at between your—his agreement with you?

A I don't remember at this moment whether Dr. Chandler was involved who is the senior member in that —he certainly was involved as far as the biology was concerned but in determining whether this would be the equivalent or not, I must say I don't remember now but I would guess that it was determined between him and myself.

Q And have other faculty members in the last three academic years made requests for some equivalent status to you?

A I have no recollection.

Q In the last three academic years have any other faculty members had some equivalent status for full-time definition?

MR. KRAMER: May I have that question read back before you answer it?

(Record read.)

A There was one faculty member who in his function as the senior faculty member of the largest department in the college in English and is the chairman of the division who also has this kind of equivalency.

Q He has it at the current time?

[2459] A He has it at the current time. I must say I forgot about that, yes.

Q Was that reached by his agreement with you?

A That was, yes.

Q You referred, Dean Bacon, to the Yeshiva program, could you tell us what that is more particularly?

A The Yeshiva Program is a program which is really not under the jurisdiction of the college, but it is the

Talmud Department where the students—I think it would be important to explain that all our students admitted to the college must agree to participate—to participate in a Jewish study program.

They can do it by either—by either doing it—doing the academic work in the James Dreyer School or in the Erma Michael College or in the YP Program so really the James Dreyer School is a school separate from the college and just as the Erma Michael School is a school separate from the college the UP—the YP Program is also a school separate from the college.

The only contact that we have is that all those—these students who are in the program are mandated to take certain courses in the college, like Hebrew, two years of Hebrew, two years of Jewish history and eight semesters of Hebrew language and literature which is basically courses in the Bible.

* * * *

[2465] Q On other occasions you indicated that once a faculty member had some equivalency status, that was worked out between you and the faculty member?

A Yes.

Q Is that likewise the case with Dr. Ginsberg?

A Yes, I think it was worked out with him.

Q How did you determine what kind of equivalency he should get or to what extent he should get an equivalent status?

A It was again his suggestion that it be done.

Q Did he explain what he did in the Yeshiva Program to you?

A No, he didn't.

But in what they—because—basically what they do. They give a lecture which we call a Sheur.

Q Could you spell that?

A It's a Hebrew term.

I don't know how you want to spell it, you could really translate it as S-h-e-u-r, maybe apostrophe between the E and the U.

Q It would be helpful to the record—to the reporter.

A I must honestly say that I have never explored it beyond that.

Q Where are these lectures given?

[2466] A They are given in the classroom.

Q At the Yeshiva College?

A Well, we don't have a classroom or building which is Yeshiva College. It's the uptown center.

We have a uptown center and that uptown center Yeshiva College courses are being given and ENC being given and JSS courses are given and YP courses and Belfer courses are given so there is no such thing as saying this is Yeshiva College and this is Belfer and this is a Belfer building.

• • • •

[2482 Q (By Mr. Schectman) Dean Bacon, you testified on direct examination with regard to the faculty statutes at Yeshiva College and with regard to the constitution of the college as well.

Were either or both of these documents referred to any of the members of the administration for approval?

MR. KRAMER: I must object to the reference to the witness' prior testimony.

I am sure it's inadvertent but it's the constitution of the Yeshiva College Senate, not of the college.

MR. SCHECTMAN: Excuse me.

Thank you, I am referring to the constitution of the Yeshiva College Senate and the statute for the Yeshiva College faculty.

Q (By Mr. Schectman) Were either of those documents referred to any members of the administration for approval or review?

A Yes.

Q Which one?

A Both.

[2483] Q And to whom were they referred?

A The president.

Q Did the president review these documents?

A I assume—I presume he did.

Q And did you receive any response from the president of his review?

A I received a response to the Senate, it was approved as presented, and I received a response from the president in which he responded to some difficulties that

—that the faculty found with the—with item—I think it's item three, is it Roman Number III that has been scratched out—

Q Yes, that's correct.

A —and referred it back and asked that the faculty look at it again.

Q Did the faculty look at it again?

A They looked and looked and looked, yes.

Q And was the position of the president finally effectuated?

A No.

Q What was effectuated?

A Actually we have a kind of limbo situation where we operate the faculty indicated in terms of—in terms of divisions which of course has been approved and has been in operation in the college for many years [2484] before I came, and that we operate in terms of subject areas and senior faculty members, these are the defacto operation as far as the college is concerned.

• • • •

[2496] Q And what rank of appointment is made to full-time faculty members?

A That again depends upon what has been arranged in our discussion with the senior faculty member and that faculty member who is being appointed, the arrangement is made before the appointment, he agrees to accept position A. B. or C. and that is the appointment that he gets.

Q What are the possible positions A, B, and C?

A He could come in as an instructor. He could come in as an assistant professor.

He can come in as associate professor.

He can come in as a full professor.

• • • •

[2502] Q Is there a Budget Committee at the—at Yeshiva College.

A No.

Q Is Yeshiva College—

A Except the welfare, the Yeshiva College Welfare Committee may—may function, and certainly will function this year in that area—capacity.

Q Do you take part in establishing a budget for Yeshiva College?

A Yes.

Q And who else takes part in that process including any people from Yeshiva College if any and people outside Yeshiva College connected with the university?

A Well, Yeshiva College budget is determined by the salary and the—salary of the faculty and by the expenses that go along with the laboratory equipment.

So to a certain extent while there is nobody sitting and determining whether it's going to be so much and so much and I would say that there are—that they [2503] are partners in the establishing of the budget.

Q Well to the extent that discussions are had with regard to the budget and advise or recommendations or concrete consultations are made what parties take part in that process with you?

A Well, all I know is that I receive requests from senior faculty, whether it's chemistry or physics, whether it's biology for equipment which are being approved as a—as a formality and the rest of it has to do with the—has to do with faculty salary and fringe benefits and another portion has to do with student activities and that is the extent of the budget of the college.

Q Do you consult with Mr. Sokal with regards to the budget at Yeshiva College?

A All I do is add up salaries, fringe benefits, equipbent that we had last year, and send it on.

Q Do you ever request any special funds or any miscellaneous amounts on that budget or for any other purpose other than those you have indicated?

A In terms of student activities I sometimes do, yes.

We have such a thing as a debating society which goes on tours in the United States and these are subsidized by the college.

Q Is the Yeshiva College budget known to or accessible to the faculty of Yeshiva College?

[2504] Q Have you ever been asked to discuss the budget or the details of the budget in any faculty meeting?

A No.

Q No?

A No.

Q Was a new library recently built at Yeshiva College.

A That's right.

Q Was the library committee standing at that time?

A I think it was the university library.

Q Was there a library committee at the Yeshiva College standing—in existence at the time?

A Yes.

Q Did that library committee receive any copies of any access to the plans and designs as to that library?

A Representatives of the library committee were involved in the planning of the library.

Q From the Yeshiva College library committee?

A From Yeshiva College and other schools too.

MR. KRAMER: Can I have the answer read back, please?

(Record read.)

Q More specifically were any full-time members of the faculty on the library committee at Yeshiva College consulted or otherwise take part in the planning or development of the new library?

A The answer has to be yes.

[2505] Q And who was that?

A I have no idea.

It's six, seven, eight years ago.

Q On what basis then do you make your answer?

A Well, I do remember that—that we—that we wanted to get the input from the various schools about the library just as we had been doing in some of the other buildings, like the building that—which houses Yeshiva College right now.

Q Do you remember if Dr. Whitehorn was on that committee at that time?

A I don't remember if Dr. Whitehorn was a member of the Yeshiva College faculty at that time.

You must understand that the plans for the library were conducted years before the library was built.

Q Who formulated the tenure policy of Yeshiva University?

A Then tenure policy was basically formulated a number of years ago by a faculty committee which was—which had representation from various parts of the university and the chairman of which was Dr. Fleischer, that was a number of years ago who made his—who submitted the result of that—of their deliberations.

Q Was there a recent change made to the tenure policy at Yeshiva College?

A Yes, there was.

[2506] Q Was that change pursuant to the recommendations of the committee you just referred to?

A No—well, the change—that committee was in existence many years ago.

This is—the present policy I think it was about two and a half to three years to kind of make it—to come to the final—to the final state of it, and in each stage, in each of the phases, until the final stage, Welfare Committees of the various schools were consulted.

Q And who finally set the—who consulted with the Welfare Committees?

A I did.

Q And—

A And in fact the last—before the final, the last meeting that I had about this matter was with representatives of the Belfer Graduate School and Wertzweiler School.

They had some questions about it and we went ober each one of them and I think a good number of the recommendations were incorporated.

Q What individuals or body made the final decision in formulating and adopting the new tenure policy?

A The Board of Trustees.

Q And before the Board of Trustees was there any individual or body of persons at the university who made a recommendation to the Board of Trustees?

[2507] A The—the final document actually was drafted by myself after consultation with these various committees and as I said drafts—as the changes were made they were submitted to the various faculty—welfare committees of the various schools asking for the input, and the final draft was then presented to the executive council.

Q The executive council of the university?

A Of the university.

Q Are there any faculty on the executive council?

A No.

Executive council of the university, the executive council of the university also had their input and changes of these were again distributed to the various welfare committees of the schools and then finally it was presented as a—as a document by the executive—by the executive council to the Board of Trustees through the president.

The revised tenure statement was a liberalization of a statement which was in existence, I think I ought to bring into the hopper too.

At the time when most of the schools were eliminating tenure policies or considering eliminating tenure policies.

Q You indicated that division chairmen at Yeshiva College in consideration of new courses or the establishment or adjustment of credits I believe, that the division chairman [2508] would call meetings of the divisions and make decisions in that regard, is that correct?

A That's correct.

Q And when they called these meetings will the faculty members within the division be present?

A I presume so.

I am not present so I could not determine it.

Q Is it your understanding that they take part in the consideration?

A I think that's my understanding, yes.

Q And is it your understanding they submit advise as to adviseability of new courses or credits allowances and so forth?

A I don't know.

We have to separate that, because—because the—these things are being initiated in the departments by individual faculty members.

This is really the second instance.

Q And then they will meet as a body and discuss it at length?

A Yes.

Q Will they vote at these meetings, do you know?

A Either vote or consensus.

Q Now, you indicated the—that the advisory council will deliberate—

[2509] A At least I hope so.

I have never been present at any of these meetings except in the first years when I was—I participated in some of the meetings of the—of the division of language and literature.

Q Now, you also indicated that the advisory council, or chairmen will sit with you and you will deliberate on requests for promotions and sabbaticals, do you not?

A That's correct.

Q Will, to the best of your knowledge, the division chairmen be conscious or considerate of the opinion of the other faculty members, if you have any knowledge?

MR. KRAMER: I have to object to the use of the word conscious.

MR. SCHECTMAN: I will strike the word.

MR. KRAMER: The witness can't creep within the consciousness of the division chairmen.

MR. SCHECTMAN: I will strike the word.

I will rephrase the question.

Q In your meetings for instance in consideration—in considering promotions for faculty members, will division chairmen reflect any consensus or any vote or any opinion of the other faculty members of the department or division?

A No.

[2510] Q Are they acting to the best of your knowledge on their own personal opinion?

A I a good number of cases that's the case.

In some others the advisory council asked that information be collected on—on such a faculty member and in this happened only very recently, last year.

Q And how was that information collected?

Did you consult with other faculty members?

A I didn't.

Q Did they consult with faculty members?

A The chairman of that committee did.

HEARING OFFICER: Off the record.

A Excuse me, not the chairman of that committee.

I am talking about the chairman of that division. He was asked to get information from the senior member of the department and he was also asked that the—some information be brought from another school, in this case it was the Department of Mathematics of the Belfer Graduate School.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

A I would almost thing that was the exception in cases.

Q Now with regard to the termination of faculty, were you—you indicated,—you indicated in your direct [2511] testimony you will discuss the matter with the senior faculty member?

A I most certainly do.

Q And will you—are there occasions that you will consult with or the senior faculty member will consult with other members of the department?

A No.

Q And the decision is made solely on the basis of the personal judgment of the senior faculty member?

A Sometimes the chairman, the divisional chairman.

Q Will the division chairman ever consult with to your knowledge other members of the division with regard to these questions?

A My indicated guess will be no.

Q The division chairmen are elected are they not?

A That's correct. Was elected, as I testified many years ago.

Q Are division chairmen paid according to the faculty scale—according to the salary scale in existence at Yeshiva College?

A That's correct.

Q Do they receive any special stipend?

A No.

Q Do senior faculty members receive any special stipend for that position?

A I am sorry?

[2512] Q Do senior faculty members receive any special stipend for that position?

A No, with the exception of this one person I mentioned before.

Q Are senior faculty members paid pursuant to the existing salary schedule at Yeshiva College?

A That's correct.

* * * *

[2516] Q You have listed Dr. Wischnitzer—did I pronounce it correctly?

A Correct.

Q —On Employer's Exhibit 110 as a full-time faculty member in the Department of Biology, have you not?

A That's correct.

Q Is he paid pursuant to the effective salary schedule for full-time faculty at Yeshiva College?

A That's right.

Q Does he receive any special benefits for the role he playes as assistant dean?

A None, except equivalency.

Q The—you testified that Dr. Wischnitzer worked with the premed program.

Does the fact that—that a student drops his premed program necessarily mean that he no longer is a student at the university?

A No that's not—it doesn't follow at all.

Q In fact dont some students drop their premed program and take other majors, and continue as students?

A That's correct.

[2517] Q And does it necessarily or does it most usually follow when a student drops his pre-medical program that he leaves the university?

A A good portion of them do, yes.

Q About how—about what portion?

A I have no idea.

Q More than 50 percent?

A I have no idea.

I can tell you that two students yesterday—two students yesterday—if a student requires—ask for a transfer to another school I make it my job to—to speak to the student because obviously I am trying to keep them, and I had two students yesterday who indicated that they are going to leave the school.

Q Dean, you are a member of the faculty of Yeshiva College, are you not?

A Yes, I am.

Q Is your faculty determined according to the salary schedule in effect for the faculty at Yeshiva College?

A No.

I get a smaller salary check than some of my full-time faculty. And some faculty members didn't believe it and I showed it to them.

My full-time load is more than 12 hours too.

* * * *

[2525] Q Excluding the Board of Trustees what body at the university has the authority to deal with university wide policy and procedure?

A Well, I would probably have to list three such groups.

That's the Executive Council,—

Q Is that—

A —the undergraduate—the council of undergraduate schools and the council of graduate schools.

Q Are there any faculty on the executive council of the university?

A No.

* * * *

[2528] Q Employer's Exhibit 114 list department—departmental advisory committees?

A Yes.

Q What is the authority of these committees?

A As I testified this authority was established by the Senate, approved by the faculty.

[2529] Q But what I am—could you be more specific as to what authority they have?

A Oh, I am sorry.

I thought that you—

Q What comes within the purview of their authority or what may they act upon?

A Each department—each department is suppose to have—each department in which there is a major in the college is suppose to have as I indicated before if at all possible two faculty members and two students and they discuss the problems of the department, discuss possible innovations, possibly discuss possibly extension, expansion, and they make the appropriate kind of—explore weaknesses.

Q And to whom will they make their recommendations or submit their advise?

A Well, they will—they should according to the Senate—a decision should be—should be made to the Senate.

Q Will often a departmental chairman or senior faculty member—excuse me, will a divisional chairman or senior faculty member ac' at times in consultation with these committees?

A Well, the Senate will not—the Senate will then make a recommendation—will have to go back to the department and then go to the department division, etc., committees and what have you.

[2530] Q Taking into consideration then the—

A The recommendations.

Q —the recommendations and deliberations of these teachers and students listed on this exhibit?

A That's correct.

Q Just going back to one area very briefly, in testifying with regard of regarding the budget you said you merely added up requests for money for labs and faculty salaries and so on.

Has there ever been a conflict as to priorities where there was not sufficient money to meet all those totals?

A I must say that the college, Yeshiva college was not put in that—in that position where such priorities had to be established.

We are working on a—a—on a minimum budget and that's the way we are working.

Q Have you always been able to meet the requests for budget allotments from—from people in your college?

A That's correct.

Q You have never had to deny a request?

A I would—sometime when I see it's exorbitant I would go back to the senior faculty member and ask him to explain it to me, and if upon explanation—sometimes he will from his own say say maybe we dont need it today and [2531] then he changes it, but I would say in 99 percent of all cases it went right through.

Q Have other members—

A With my—with perfunctory kind of approval on my part.

Q Have other members of the university administration ever rejected any budget request you have submitted?

A I am not—I am not—I don't remember, no.

I cannot recall any such thing.

Q So your budget requests are accepted in total?

A My budget—well, it is a matter of paying salaries of faculty which has been agreed upon and there is a minimal amount of—of laboratory equipment that has to be—that has to be purchased, and that's all there is to it.

Q Was there ever a freeze—faculty freeze at Yeshiva College?

A Yes, there was one year.

Q When was that?

A I don't even remember the year but I think it was two or three years ago.

Q In that case did you go back to senior faculty members and tell them that their budget demands were exorbitant?

A No, at that time it was decided that there would be no faculty increase.

Q How was that decided?

[2532] A It was decided by the president. It was an emergency situation and the university made the decision.

* * * *

Q (By Mr. Schectman) Dean Bacon, you testified with some specificity about the standing committees at Yeshiva College.

[2533] You did not so testify with respect to the Welfare Committee.

What authority does the Welfare Committee have?

A Well, let me just respond to the first part of your comment.

All the other committees sent minutes to the—to—sent minutes, copies of which I received and became part of the record.

I felt that the Welfare Committee and by the way I am a member—member of all these committees by request of the faculty as you will see in the statute, and—the same situation doesn't pertain to the Welfare Committee?

A The functions of the Welfare Committee are those that the Welfare Committee sets out for itself.

Q You are on this committee are you not?

A No, I am not.

That's exactly what I said.

Q This is a committee you are not on?

A That's the only committe I am not on.

Q Are you at all familiar with its functions?

A I have some very good relations with faculty.

Q So are you at all familiar with there—with their functions on the Welfare Committee?

A Well, as the name indicates, the Welfare Committee is [2534] concerned with the welfare of the faculty.

Of the Yeshiva College faculty.

Q Are there any senior professors on the Welfare Committee?

A I—I don't think so.

Q I will show you a list of—

A Are you talking about senior professors, not—senior faculty?

Q Senior faculty members.

A Yes, you must understand that this committee is elected by the faculty so that's it.

* * * *

[2535] Q (By Mr. Schectman) Are divisional chairmen excluded from eligibility for membership on the—on this committee?

A No.

Q Are senior faculty excluded from eligibility?

A No.

I think it's probably a coincident that you find this time no—just a minute, Dr. Tauber is a senior faculty, is a senior professor.

Q Dr. Seed I think is also—

A And Dr. Fleischer was on the committee up until—

[2536] MR. KRAMER: Would the Hearing Officer caution the witness that he is to only answer questions that are only asked him.

That's the proper way to proceed.

HEARING OFFICER: Please wait until the question is asked before volunteering.

THE WITNESS: I learned that in the Army.

HEARING OFFICER: Never volunteer.

MR. KRAMER: It may have been a long time ago.

A 1942, right, to '45.

Q What have been the most recent functions of the Welfare Committee that you are aware of?

A The Welfare Committee together with the—with the Stern College Welfare Committee were negotiating salary arrangements for the faculty.

Q And have these historically negotiated the effective salary scales at Yeshiva College?

A They have.

Several times in the history of the college and Stern College.

Q Do they negotiate the effective salary rates for part-time faculty?

A No.

Q Do they negotiate effective salary solely for full-time faculty?

A That's correct.

[2537] Q They negotiate the effective salary for departmental chairmen?

A No.

Q For Divisional Chairmen?

A No.

Except that they are faculty members, there is no difference there.

Q I see.

So then the affect or the results of the bargaining of the Welfare Committee affects divisional chairmen and senior faculty members and regular faculty members alike, am I correct?

A It affects the Yeshiva College faculty, fulltime faculty.

Q And with whom do they negotiate?

A Bascially with Dr. Sokal.

Q Dr. Sokal is?

A The vice president for financial affairs.

Q Will you take part on—in these negotiations many times?

A I did.

Q Pardon me?

A I did, on the side of the faculty.

Q In what capacity were you present at such—such a meeting or in such a context were you so there?

[2538] A As the person very much concerned with—about the welfare of the Yeshiva College faculty.

Q What other matters besides salary for the faculty at Yeshiva College will the Welfare Committee do?

A I am sorry, I didn't hear.

Q What other matters than salary will the Welfare Committee at Yeshiva College be concerned with?

A Well, again, you are asking to look into a crystle ball.

Q No, I am talking about the recent past in your recollection.

A But in the recent past they were talking about—about the salary increases, of course, they were talking about fringe benefits.

Q Only as they pertain to full-time faculty?

A As they pertain to full-time faculty.

There was also some—also some discussion as far as part-time faculty is concerned.

Q Was there any resolution or any action on that?

A No.

Q Was—

A I think by mutual agreement it was eliminated.

Q And that was the agreement of the university as well as the Welfare Committee?

A I said mutual agreement. I am not talking between the [2539] vice president for financial affairs and myself.

Q And in your recollection has the Welfare Committee been concerned with matters other than salary and fringe benefits?

A Now you are taxing my memory and I don't know.

Q Take a moment.

A I don't know.

Q You can't recall any other action by the Welfare Committee?

A No.

• • • •

[2548] Q Has there been any policy established at Yeshiva College with regard to increasing or decreasing the respective teaching loads of the full-time or part-time faculty at the college?

A Some—there was some discussion about it which as far as I am concerned was—there was no change in the full-time load of the faculty.

Q With whom was that discussion?

A With the faculty. With the faculty Welfare Committee and at the negotiations of the faculty—with the faculty Welfare Committee some people proposed that this should be taken into consideration but it was never followed through and it was never—it was never acted upon and the regulation of 12 hour load is still in effect.

It is still in effect.

Q So the faculty Welfare Committee has considered other matters besides salary and fringe benefits?

A I don't think you can call that they consider it.

[2549] That was in an initial statement made by Dr. Sokal when the committee met.

It was certain—introductory statements made which to the best of my recollection have never been brought back again and never became really a serious matter in the discussion of the—of the Welfare Committees.

• • • •

RECROSS EXAMINATION

[2554] Q (By Mr. Schectman) Dean Bacon, do you know of any occasion on which the Welfare Committee at Yeshiva College has ever tried or suggested or in any way composed any disciplinary measure or fine or anything of that nature against faculty members at Yeshiva College?

A No, but he talked about it.

* * * *

[2593] Whereupon,

JACOB RABINOWITZ

called as a witness, was duly sworn and testified as follows:

HEARING OFFICER: State your full name.

THE WITNESS: Jacob Rabinowitz, R-A-B-I-N-O-W-I-T-Z.

DIRECT EXAMINATION

Q (By Mr. Bodner) Dean Rabinowitz, by whom are you employed?

A Yeshiva University.

Q In what position?

A As Dean of Erna Michael College of Hebraic Studies.

Q Where is that college located?

A At the Uptown campus.

Q What is the primary responsibility of that college?

A It is one of the three morning divisions of the University, and its curriculum is a, basically, to Hebraic studies, as its name implies.

It has a number of functions, one of which is a professional function, to prepare teachers for Jewish education.

Q How long have you been Dean of Erna Michael College?

A Since 1968.

[2594] Q What position did you hold prior to becoming Dean?

A From '66 to '68, I was Dean of Undergraduate Students in charge of, basically, student services, and—

Q Was that undergraduate students for Erna Michael College?

A No.

Undergraduate students for the entire University, and included Stern College For Women.

Q Prior to your function as Dean of Undergraduate Students?

A From '57, I think it was '57, through '66, I was at Stern College For Women, as instructor in chemistry, and sometime after '57, I guess it was about '61 or so, Director of Guidance for Stern College.

I had also been a faculty member of the James Striar School of General Jewish Studies.

Q Do you currently hold faculty rank in Yeshiva University?

A Yes.

Actually, I have two ranks.

One is an Assistant Professor of Chemistry, and the other one is an Associate Professor of Talmud.

Q Have you taught courses at Yeshiva University?

A Yes, I have.

Q How recently?

[2595] A I'm teaching now at Erna Michael, six hours a week.

As I've indicated, I taught at Stern College, analytical and physical chemistry; at the James Striar School, I taught Bible; and way back in, I guess it was '49 or '50, I was an Assistant in Chemistry at Yeshiva College.

Q Are you also a member of any university-wide councils or bodies?

A Yes.

The Executive Council, the Undergraduate Council.

By bodies, you would include committees?

Q Yes.

A The University Budget Committee.

Q When you mentioned the Undergraduate Council, do you, in that capacity, also have a role in the Committee on Academic Priorities and Resource Allocation?

A Yes.

The Committee on Academic Priorities has its membership composed of the members of the Undergraduate and Graduate Council.

One who is a member of the Undergraduate Council is automatically a member of that committee.

Q I see.

Dean Rabinowitz, in preparation for this hearing, [2596] did you, at my request, prepare an exhibit, listing the faculty of Erna Michael College in the fall of 1974-75?

A Yes, I did.

I had it prepared in my office.

Q Is this the exhibit that you prepared?

A Yes, it is.

MR. BODNER: Mark this for identification, please.

(Employer's Exhibit 115 was received and marked for identification, of this date.)

Q (By Mr. Bodner) Dean Rabinowitz, would you look through that Exhibit and tell us what is the designations in the lefthand column, the furthermost column, represent, beginning with the word, "Bible?"

A These designations are subject areas.

We do not have a department set up as such, but our school is divided into these eight subject areas, and they are listed in that first column on the left.

Q Okay.

The next column is headed, "Full Time Faculty."

What does that term—

A That is full time faculty.

People teaching a minimum of twelve hours per week, but not necessarily all in my school.

Some of these people are completing their full time duties at Erna Michael College by being assigned [2597] to other units of the University.

* * * *

[2598] Q Okay.

I notice in the column labeled, "Full Time Faculty," there's a designation next to certain names, such as Dr. Herskovics, in parenthesis, "Sr., Prof.," end parenthesis.

Would you tell us what that stands for?

A Yes.

That is a Senior Professor designation.

It is in lieu of the chairman status. We don't have chairmen, as such.

There are three such people.

Dr. Herskovics in Bible; Dr. Leaf in Hebrew; Dr. Carmilly in History.

All of these people were in that position prior to my arrival at Erna Michael, and they are utilized much the same as chairmen are utilized at other units of the University.

* * * *

[2615] Q (By Mr. Bodner) Dean Rabinowitz, in preparation for this hearing, did you also, at my request, prepare a list of the Committees at Erna Michael College, and a roster, indicating the names of the faculty members who currently sit on those Committees?

[2616] A Yes, I had such a list prepared.

MR. BODNER: I would ask this be marked for identification as Employer's Exhibit 117.

(Employer's Exhibit 117 was received and marked for identification, of this date.)

Q (By Mr. Bodner) Dean Rabinowitz, the names of the individuals listed next to each of the Committees, would you tell us, are these all faculty members at Erna Michael College?

A Yes, they are, but can I offer two corrections to this, as I see them here?

* * * *

[2617] Is it correct that all of the individuals listed on this list are faculty members?

A Yes, they are.

Q Are there additional student members of the Student Faculty Committee?

A Yes.

The Student Faculty Committee has three student members, chosen by the Erna Michael College Student Council.

Q Do any of the other committees have student members in addition to the names of the faculty members listed on this Exhibit?

A Well, Delegates to the Undergraduate Council are similarly chosen by the student council, to serve on that Undergraduate Council, so they would have student members, too.

* * * *

Q All the committees listed at the top of the sheet, Student Faculty, Admissions, Academic Standing, Library and Delegates to Undergraduate Council, are these all [2618] current committees?

A Yes, sir, these are current committees.

Q I notice, at the bottom of the page, you have examples of ad hoc committees, which existed in previous years.

Are there other such committees, other than the two examples you have listed here?

A Yes, there are.

There was a very important committee, a Curriculum Committee, which existed for about three or four years after I first became Dean.

It was actually that committee which set up the current framework of this school.

Now, we don't have such a committee today, because in lieu of that committee, we meet as committees of the whole for each subject area, and once the curriculum structure, course sequence, requirements for graduation, et cetera, were set up by the original Curriculum Committee, it now is a matter of keeping things current, and making such relatively small changes as are needed in a year-to-year operation, and these changes and evaluations are done by regular meetings of the various subject area faculty members.

* * * *

[2620] Q (By Mr. Bodner) Dean Rabinowitz, do the faculty members of Erna Michael College meet as a body to discuss, make decisions on matters of interest to the faculty?

A Yes, they do.

Q In what form do they hold those meetings?

A It's—

Q What designation?

A We call them faculty meetings.

There's no other designation, such as faculty assembly or something on that order.

[2621] Q Are there written by-laws governing such meetings?

A No, there are not.

Q Okay.

A Erna Michael is a relatively small faculty, and there were no by-laws when I came in as Dean, and we operate fairly well together, I would say, really very well, and we found no need for, you know, written constitutions or by-laws.

Q Could you briefly describe the subject areas that would be involved in faculty meetings at Erna Michael College?

A Well, they could range anywhere from the beginning of the educative process, which is the admissions process, all the way through certifying student for candidates for graduation.

And, in between, we would have curricular matters, grading, attendance, scheduling, whether they're course schedules, calendars, things of that order.

I can think of virtually no area which could not be handled at a faculty meeting, provided that it was germane to the Erna Michael College school itself.

Q Are faculty meetings at Erna Michael College, also taking up matters that might be considered in the nature of the working conditions of the faculty; that is, matters of faculty salary, tenure, promotions, standards, and the [2622] like?

A Let me take those one at a time.

Faculty salaries, there was, at one time, a Welfare Committee at Erna Michael College. We don't have such a commitee today, because the faculty, by virtue of its, again, small size, found it much more expedient to simply latch onto the Welfare Committees of the other universities, and, in the past, whatever has been—whatever adjustments, whatever agreements have been reached by the University, between the undergraduate schools, through their welfare committees, has also applied, by and large, to Erna Michael College.

Q You said, "—the other universities."

Did you mean by that, the other University schools?

A The other graduate schools of the universities, I'm sorry.

So, that question does not really come up.

I mean, there are only in an information sense.

They will ask somebody to report on what is happening in a welfare committee there, and will come back and tell them.

Q With regard to other working conditions?

A Well, as far as teaching hours are concerned, for example, when I came into the school in '68, Erna Michael College had a twenty hour per week curriculum for freshmen [2623] and sophmores.

Juniors and seniors were on, I think, a sixteen hour per week.

The faculty, during these first—this first year or year and a half of serious evaluation of the entire school and where it was going and what its purposes were, and how it could best be structured, the faculty came to the conclusion that this was too much of a load to be asked of students, and they approached this from an educational point of view, and, in the process of cutting down the numbers of courses, and changing credit hours, in many cases from two to three, and three to four, or things of this order, in order to decrease a student's involvement with eight or nine different courses and eight or nine different final exams, et cetera, also cut down the hours and made a four day a week school, as opposed to five days a week.

It used to run Sunday through Thursday.

It now runs Monday through Thursday.

Q This would affect the working hours, so to speak, of the faculty?

A Yes.

This affected working hours, the days they had to come in, you know, other matters.

In other words, right now the scheduling of [2624] working hours is done so as to permit a faculty member to finish his direct teaching responsibilities in three days a week.

Now, he may come in, of course, five or six days a week, his office is open to him, and I would welcome, of course, you know, such increased participation, if he chooses.

But, the direct teaching responsibilities and office hours, et cetera, can be confined to three days a week.

Prior to this change, it was more than likely, it would have to be at least four.

Q Would the number of hours that a student takes each semester, have an effect on the working hours, if we can use that phrase, of both full time and part time faculty?

A Yes, it would have affected—it did affect both part time and full time people.

Q Would you tell us any additional subject areas that the faculty meetings take up with regard to what we have broadly described as the working conditions of faculty members, to use a phrase the Board has used?

A Well, as I've indicated, I can conceive of no subject matter which would be taboo at a faculty meeting.

So long as it was germane to the Erna Michael [2625] College operation, itself, and in the past, at no meeting that I have attended at the Erna Michael College faculty, and I've been to all of them, has there ever been a subject which was raised and deferred or pushed off on that basis, that it was not a matter to be discussed at a faculty meeting.

Q Have the subjects that have been brought up, been brought up by both full time and part time faculty members?

A Yes.

The meetings are open and all members of the faculty are invited and urged to attend, and there is absolutely no distinction in terms of meetings, participation, et cetera, between part time and full time people.

Q Did the decisions made at those faculty meetings, affect both full time and part time faculty members?

A Yes, they did.

Q Dean Rabinowitz, do you attend the meetings of the faculty at Erna Michael College?

A Yes, I do.

Q In what capacity do you attend?

A I preside at those meetings.

Q When you say, "preside," do you have a vote in the determinations of those meetings?

A No. No, I don't vote.

Q Can you veto the decisions made at those meetings?

[2626] A Can I veto?

I guess it's an academic question.

Q Have you ever vetoed?

A No. No.

And there have been, I must say, instances where the faculty has acted contrary to what I, you know, I, myself, would have chosen, had I, you know, been able to act unilaterally, so to speak.

Q Can you give us an example of something of that nature, where the faculty's decisions were not within your personal wishes?

A I think I can give a number of examples.

When I first—Back in '69, I made, what I thought, was a very good suggestion with regards to calendar reform, to ask the faculty to consider a tri-mester calendar, rather than a, you know, two semesters, so as to decrease tension and conflict with—within the student, you know, with regard to his dual program responsibilities.

That was simply talbed and never heard from again.

A—Another suggestion—

Q Can we stick with that one?

A Yes.

Q When it was tabled, who was it tabled by?

A By the faculty.

[2627] Q After it was tabled, were you able to introduce it, despite the non-desire of the faculty to institute that program?

A Well, I made a number of informal inquiries with some members of the faculty, and I felt that I wouldn't get anywhere with it, so I never formally brought it up again.

Q Did you regard the decision of the faculty to table it, as binding on the policy of the school in this area?

A Yes, I did.

And we are now on the semester system.

Q Okay.

Are there any other examples where the faculty made a decision that you, personally, did not agree, but felt was binding on you?

A Yes.

In terms of grading policy.

The faculty had introduced a P. N. grading system, that would be a pass, no credit system, to apply to a course per semester, according to the student's choice. It had introduced this on an experimental basis. After the year's experiment was over, the faculty felt that it did not work terribly well, and they wanted to put in a restriction, giving the instructor the right to voto a [2628] P. N. choice on the part of a student.

I felt that this was very unwise. I pointed out that one of the wonderful things about the P. N. system, is that the faculty member does not know which student in his course is taking a course P. N., so he can then treat all students alike.

The faculty responded, nevertheless, a student who is on a P. N., with a no credit, sometimes exhibits such a total lack of interest in the course, that he not only hurts himself, but is liable to hurt other students.

We had a long, you know, it was a long debate in the faculty about this, and they voted to put this system into operation, and they did.

I must add that it operated for a year, did not operate very well, and the faculty then, again, reconsidered the question, and went to a P. F. system, which is a pass-fail system, rather than the pass-no credit, and that seems to be working out much, much better now.

Q Have the faculty's decisions on the matters that you have mentioned, and other academic matters, ever been vetoed by yourself, as Dean, or the Vice-President of Academic Affairs, by the President, or by the trustees of the University, where they pertain to the Erna Michael College?

A Never. Never.

[2629] I may add, with regard to that P. N., that it was a difficult time for me, because I was sort of caught by the students on the one end and the faculty on the other.

The students were pressing very hard for this P. N. system, and they felt that it was much to their educational advantage to have it, and, as I say, I—it was a difficult year for me, by virtue of that faculty decision.

Q Dean Rabinowitz, returning to the nature of the faculty meetings, how are decisions arrived at in those meetings of the faculty?

A Most of the time by concensus, but there will be some questions upon which formal vote is taken.

* * * *

[2633] Q In addition to the meetings of the faculty as a whole of Erna Michael College, are there also meetings of the faculty of individual departments?

A Yes, by subject.

We don't have the formal designation of department.

Q By subject area?

A Yes.

Each area meets, generally, twice a year, but an absolute, mandated once a year, an absolute minimum, by faculty resolution.

During these meetings, they will do a number of things, such as, A, run an evaluation of the current courses, and both, as affects course content and teaching methodology, these meetings are actually run down where an instructor will report to the group on what he's doing with his group, where he's up to at that point in time, where he hopes to go in terms of his course, what are the outside readings which he is requiring. Something about the nature and number of examinations which he is giving.

This is, we go around the table this way and so that everybody has a chance to evaluate and to exchange information as to what's going on in the other courses. [2634] Then they will move into suggestions for new offerings and, over the years, a number of new courses have originated in that Committee.

That is, they would be thought about, kicked around in that Committee, and, from there, they would then go to a whole faculty group, which would then approve or disapprove of this, and then the course would be offered, and there are any number of courses which have gone that route.

Finally, they will also become involved in making up the comprehensive and qualifying examinations for that subject.

When I say, making up, they're not going to sit there and make it up, obviously, but passing out—dividing the assignments amongst themselves, as to who will take what area for preparing this examination.

Since this examination is necessary for a student who wants to get a degree or diploma, it's a fairly important function of the subject area meetings.

Then the call to this Committee, to this subject area meeting, always includes a—the designation, roughly translated, anything which—anything which the—which the faculty member will seek to bring up. And this is also at every faculty meeting called, you know, as an item on the agenda.

[2635] Q Something similar to open business, anything of interest to the faculty?

A Yes. Anything of interest to the faculty.

* * * *

[2636] Q Dean Rabinowitz, in addition to the decisions made in faculty meetings and in subject area meetings, are there also committee meetings at the Erna Michael College in which decisions are made on matters of interest to the faculty?

A Yes.

The Admissions Committee, for example, sets the standards for admissions.

As a matter of fact, the fact that we are the only school today, the only undergraduate school at the [2637] University which administers a written entrance exam, is a direct consequence of a recommendation and resolution, I shoud say, by an Admissions Committee, going back to '68 and '69, or some such year.

The Committee made that proposal, they set up a group which would make up the examination, and I'm left with the job of administering it.

But, it is on the basis of this examination that we will either admit a student—one of the factors, I'm sorry, this is one of the factors relative to the admission or nonadmission of a student, and the placement of a student.

Q What do you mean by placement of a student?
A We have—
Well, some students who do extremely well might be given credit for some courses; for example, a student who does very, very well on the Hebrew language section of the examination, by virtue of his having either a superior high school preparation, or, perhaps, being an Israeli, and is very conversant with the language, will be exempted from, and in some instances, if his score is high enough, be given credit for Hebrew I or II. These are the intermediate courses.
Similarly, a student who shows extraordinary proficiency in Talmud, will be placed in our better track [2638] for Talmud.
It has also happened that a student has been given advanced standing on the basis of a very superior score in the admissions.
We have, as I have said before, too, rejected students on the basis of very poor scores on this admissions.
The Student Faculty Relations Committee is an important, ongoing committee.
Right now, and I mean, you know, literally, within these weeks, it is dealing with some suggestions on grading on attendance, on scheduling, which will affect all faculty members.
Now, they don't make any decisions in that Student Faculty Relations Committee.
They'll discuss something, and then each group will go back to its parent body for approval, as the case may be.
In other words, the faculty will receive the report and, either approve or disapprove.
Students, on the other hand, have a little bit less of an option, but, if a resolution of Student Faculty Relations Committee, is rejected, so to speak, by Student Council, then they will bring it back to the Committee for any kind of further action.
[2639] They don't quite have the option of rejecting things out of hand the way the faculty does.
Q When you say, "the parent body," the parent body, in this case, is the faculty?

A The faculty, for the faculty members, and the Student Council for the student members.

• • • •

[2640] Q Dean Rabinowitz, is there currently in existence a University Senate at Yeshiva University?
Is there such a body now functioning and operating as a senate?
A No, there is none that I know of, operating now.
Q In this previous academic year, was there a University Senate at Yeshiva University?
A No, there was not.

• • • •

[2645] A There is no—There has not been any process for the selection of department chairmen.
As I've indicated, the three Senior Professors [2646] have been there, in their current positions, before I arrived as Dean, and no other choices have been made or changes made.
Q This would be true of both full time and part time faculty?
A Yes.

• • • •

[2659] Q At Erna Michael College, do you have dissertation and/or thesis committees?
A We don't have dissertation or thesis committees, as such.
We have the option of a thesis open to students, in lieu of taking comprehensive or qualifying examinations, and what is involved is that a student will, if he's interested in a particular topic, in doing research on it, he will seek out a faculty member who is similarly interested, and who will be willing to sponsor him. He submits his request and then, if it is approved, and in the seven or eight requests that we have had, they've all been approved, then he proceeds to do his thesis, under the sponsorship of a single individual.
It's an undergraduate thesis, and the faculty felt, it does not need more than one faculty member.
In a certain sense, of course, it's probably like an honors course, excepting that we want a little bit more than a honors course for it, so we call it a thesis.

• • • •

[2664] Q (By Mr. Bodner) Would you, generally, tell us the criteria you use in considering a full time faculty member?

A Well, it's more of a—a process which takes criteria into account.

When we will have need of a—of faculty—of a faculty member, I'll generally approach either the Senior Professor in that area, if there is one, or a number of other faculty people in that, you know, in an area in which there is no Senior Professor, and apprise them that we need—have need of somebody in subject "X," do they know of anybody.

Alternatively, there are letters or requests for positions which come in to me or to any other of the well known members of the faculty, and we do have a folder which lists or carriers these applications or letters, and we might turn to that.

Then, I would ask these people to interview and make a judgment as to what the background of the particular individual is, whether or not he is suitable for the position which is open.

After this initial paper screening, in which I may or may not participate, in the several instances where this has happened, I think this would have been a fifty-fifty—50% of the time I participated and 50%, I [2665] didn't, and where I did participate, I suspect that it was casual.

In other words, the faculty member might have been sitting in my office, and we began the conversation with my request, you know, so that the process began there.

If there is somebody in mind, or if a particular application or letter is—looks good, then I would ask the faculty member to interview the person in question, with or without my participation.

That would, again, depend on, A, my own availability, and schedule that we can set up, or my own knowledge in the field.

Now, there is some, what, about eight subject areas. I have a good knowledge of two, I think, and passing knowledge of two or three others, and, virtually, I have no knowledge in the others, in the other three or four.

Q What factors do you take into account when you discuss a possible appointment?

A Background, educational background, degrees that are earned, that were earned, and how they were earned.

In other words, if there was a thesis, what sort of thesis it was, under whom the man worked, under whom he studied. Teaching experience, where he has taught [2666] previously.

Some references, if we can get them together, check that out, and we, generally, ask for those.

References, both as to his own teaching abilities and also personality.

We try not to get an abrasive personality if we could, we like somebody who can work well with the students.

I—And publications, as reflecting of scholarship in the field.

* * * *

[2672] Q Dean Rabinowitz, you also previously referred to the role of the Senior Professor, the individual who acts similar to a chairman in your school in the hiring process.

Would you compare the relationship of the Senior Professor to the full time faculty and to part time faculty?

A I don't—

Q Perhaps I can explain it.

A I can't think of any differences.

You mean, in the way that a Senior Professor would relate—would there be a difference in the way that a Senior Professor would relate to a full time member or to a part time member?

Q Yes.

A I can't think of any, of any difference.

* * * *

[2676] Q Is there an up or out policy in your school?

Would you—

Hold that question for a second.

Would you explain, Dean Rabinowitz, what up or out policy is, with regard to tenure, if you know?

A Yes.

[2677] It generally means that after a given amount of time, a man either has to be promoted or—on to a

tenure track, or receive tenure, or else leave the University.

There is no such policy at Erna Michael.

On the other hand, there is, if you call that de jur, there is a defactor tenure, in that nobody has ever been asked to leave Erna Michael College, who has served longer than the normal tenure period in other units of the University.

Q Is that true of all faculty?

A Of all of my faculty, yes.

HEARING OFFICER: Did I understand you to say that none of the faculty members at Erna Michael have tenure?

THE WITNESS: Have a formal tenure.

Nobody—

I have not sent any letters of tenure, or there are no letters of tenure been sent during my period as Dean, and I have not come across, in the folders of faculty people, any other notification of tenure.

And there are people on my faculty who have served better than twenty years.

• • • •

[2681] Q (By Mr. Bodner) Dean Rabinowitz, I will turn to the subject of managerial—

Dean Rabinowitz, we will now turn to the subject of the managerial supervisory status of faculty.

Would you describe your function as Dean of Erna Michael College?

A I view myself as the chief executive officer of [2682] the school.

Q In what sense?

A Responsible to the President, through the Vice-President for Academic Affairs.

Q Did you, in parparation for these hearings, Dean Rabinowitz, review the minutes and agenda of faculty meetings over the last several years at Erna Michael College?

A Yes, I did.

Q Would you tell us the example of the subject area of one of those meetings, and we'll go through, in detail, its formulation.

A Well, the things that particularly interested me, the reason I turned to the minutes, was the current structure of the school, and I wanted to go back and refresh my memory as to how it really evolved, and—because when I came into the deanship, the school really had a totally different structure.

It was offering different degrees, it had a different time frame, as I've indicated before.

There were twenty hours a week of instruction for part of the school and sixteen for another part of the school, a five day week and a four day week.

It did not have major and minor areas of study.

The courses and their sequences and their outlines [2683] were quite different from what they are today.

I had had an opportunity before I came into the school, because my appointment was announced in February, and I was not going to come into the school until September—

Q Of what year?

A Of 1968.

So, I had an opportunity which few deans have, being on the spot, I had been the Undergraduate Dean of Students, so I was physically present at the center, of trying to find out something about the school before I came into it, and so I talked at great length with many, many students, and I had a student picture, you know, of the school.

When I came to my first faculty meeting, I told them I knew virtually nothing about the school itself from the faculty point of view, and from its academic point of view.

I could repeat to them some comments made by students, and I could also provide them with some degree of administrative expertise, but I invited them to take these comments, investigate them, evaluate them, and then, if they found them to be of substance, to proceed to try to do something about it to make the school more responsive to those facets of student reaction that they thought [2684] were proper and helpful.

The faculty was very enthusiastic, and I was very well received in terms of this proposal.

They immediately set themselves up into different groups.

In particular, an overall Curriculum Committee, which I think I mentioned earlier—

Q Yes, you did.

A (Continuing)—was set up, and they proceeded to take a look at every aspect of the school, and then proceeded to make those changes, which resulted, as I have indicated, in hours and structure.

We now have a major and minor set up in the school. We offer two bachelor's degrees, Bachelor of Arts and a Bachelor of Science.

We have two different kinds of diplomas offered today, from what was offered back in those years, and I was—my real contribution to that whole period of time was simply as a learner, as a student learner, to sit and learn about the school, because I didn't know very much about it, really.

Q Let's take an example, Dean Rabinowitz, in the curriculum area, and follow it through to the decision process.

Could you give us an example of a subject that [2685] was considered by the faculty in the curriculum area?

A Well, take Hebrew language.

Q Would you tell us what—

A Hebrew language, at one time, under the old program, was offered under several different headings for any given year, so a freshman, for example, would be taking three different Hebrew courses, one relating to grammar, one relating to language, one relating to literature.

The faculty took a very close look at this and decided this was breaking up the student's effort into too many little pieces and decided to incorporate all of this into one particular course, set up a sequence of first composition and speech and another intermediate composition and speech course, and then a literature course, without the kind of breakdown that there was before.

The sequence in Jewish History was likewise completely discarded, and a survey course was introduced as a first offering, followed by elective courses and similarly, really, in every single discipline.

Now, the mechanics of that was, or were, I guess, that the subject area people who meet, examine their offerings, make out lines and suggestions for course content in a given course, and a sequence of courses.

This, then, went to the Curriculum Committee, which [2686] integrated the whole thing into the structure.

This process took about two years, and there were numbers of changes made during this period of time, in the course sequences, but what we had today is, very largely, very, very largely, the product of those first two to three years work on the part of the faculty.

Q Did those decisions require your approval?

A I don't know whether they required my approval. They received my enthusiastic approval.

Q Did the faculty make changes in the curriculum of their area, even if you, personally, disagreed with any of those changes?

A Yes, they can.

They have.

A particular sequence in Hebrew comes to mind, in which I wanted a certain—thought that a certain sequence might be helpful, based not on my own knowledge, as it was on student reaction, really, because I'm not an expert in Hebrew language as it should be taught, and the faculty subject area wanted a certain sequence, and they won out, and that's what we have today.

Q Would the decisions of the faculty on this curriculum matter that you've referred to, have a potential effect on the number of students attending Erna Michael College?

[2687] That is, to be clear, would a student likely take this into account in considering whether he wishes to enroll in Erna Michael College or in this particular program of Erna Michael College?

MR. SHECTMAN: Could we ask, rather than the witness state a bald conclusion, whether the witness have any knowledge whether such changes would, in fact, affect student enrollment.

MR. BODNER: The witness indicated he was Dean of Undergraduate Students before becoming Dean of the Students and talked extensively with students, which

gave him a particular insight into student opinion on this type of matter.

MR. SHCETMAN: He pointed out, this process took two or three years since he was Dean, so this would be students two or three years down the road, and whether he knew in—

I'm interested to know, I'd like to know, in fact, if he does, and I want a basis, rather than his conclusion.

Q Dean Rabinowitz, have you spoken to students about their reaction to changes in various programs at Erna Michael College?

A Well, I make a constant effort to keep in touch with students. They're always invited.

[2688] Matter of fact, my door is physically open all of the time.

Q Do you, on the basis of those constant conversations, have reason to believe that students are motivated by the course offerings at Erna Michael College?

A The most certainly are motivated by course offering, and by opportunities to major in a given subject.

Whether or not a particular change might, you know, bring about a student's withdrawal, I don't have no way, really, of knowing, but the overall structure of the school and the overall course sequences, certainly would have an enormous effect, not only upon a student's staying or leaving, but on whether a student will come to the school or not.

Q Would the number of students who choose to enroll in Erna Michael College, have an impact on the number of faculty positions available at Erna Michael College?

A Yes. By all means.

Q Would that have an effect on both full time and part time faculty positions at Erna Michael College?

A In the way we operate, yes.

Q Dean Rabinowitz, would the faculty's determinations as to the structure of Erna Michael College, or the restructuring of Erna Michael College, similarly, have an effect on the number of students and, thereafter, the [2689] number of faculty positions at the College?

MR. SHECTMAN: I'll object to the form of this question, in that the testimony as to restructuring of the College, I'm not sure the College has been restructured.

I'm not sure what the attorney for the University means.

MR. BODNER: Let's take a step back.

Q Dean Rabinowitz, have decisions of the faculty resulted in a restructuring of Erna Michael College, and if so, would you explain?

A I believe that the word, "restructuring," would be a very fair word to be used here.

Whether we take a look at the number of hours required, as I've indicated it went from twenty to sixteen, or we take a look at the possibility of majors and minors, which did not exist before in the school, or we take a look at the fact that Erna Michael, today, offers both a B. S. and a B. A. Degree, which are both bonafide, bachelor's degrees, as opposed to a Bachelor of Religious Education, Bachelor of Hebrew Literature, where were very specialized bachelor's degrees that it offered before.

The fact that it offers an Hebraic Studies Diploma, which it never offered before.

The fact that it has a two year curriculum and, basically, a two year elective curriculum.

[2690] I think all of these changes together would make the word, "restructuring," a pretty fair word to use in this instance.

Do I go back to the question now?

Q Why don't I ask you more specifically, would restructuring such as a change to the B. A., B. S. Degree, rather than more specialized degrees, have a potential effect on the number of students choosing to enroll in Erna Michael College?

A I would certainly hope so.

This—As I've indicated, part of the restructuring effore was designed to serve students better, and I would hope it would attract more students.

Q Would it, then, also affect the number of full time and part time faculty positions, available at Erna Michael College?

A Yes, it would.

Q Would the same be true of the other types of restructuring that you just referred to?

A Yes, in toto.

Q Dean Rabinowitz, has the faculty also made decisions to drop particular courses and replace them with others?

A Yes. Yes.

Q Have these decisions to drop a particular course and replace it with another, occasionally resulted in [2691] the need to affect the status of the particular faculty member?

A Yes. This is true.

And I go back again to what I said before, about that instructor who was a part timer for many years.

He was teaching a course in Nishnah, N-I-S-H-N-A-H, and this, this course was simply dropped from the curriculum, and for him to adapt to another subject area would have entailed a different scheduling arrangement, and so, he left the school.

Q And the course that was restructured, the course that resulted from the restructuring, is that taught by a full time or a part time faculty member?

A I realy don't know.

The restructuring was so, you know, so complete, that it's hard to say that this hour was replaced precisely by this hour.

A I indicated, we took out, instead of having a student taking—from eight to ten different courses, the freshman now simply takes four courses, or five at the very most.

We've changed courses from two hours to three hours to four hours, from four to six, and things of this order, you see.

Q Have there also been decisions of the faculty to [2692] affect the nature of the major, minor or program areas of study of the students at Erna Michael College?

A I'm sorry, I didn't—I don't think I have the question.

Q Let me rephrase it.

Have there been decisions of the faculty with respect to changing the nature of the subject areas available in Erna Michael College, that a student can or must enroll in?

A Subject areas.

I indicated that they went into a major and minor area, you know, subject areas, and worked up sequences for each of these areas.

Q This did not previously exist?

A Majors and minors did not previously exist.

There were subject areas, but there were no requirements or additions, or areas for, you know, to put these together that way, no.

Q Would that change, also, likely have an effect on the students who would come to Erna Michael College?

A Yes, it would.

Q Would it then, also affect the faculty positions available at Erna Michael College?

A Yes, it would.

Q Dean Rabinowitz, when there is a matter of interest [2693] to the faculty, what general procedure do they follow to formulate their position on that matter?

Let's take in the academic area.

A Well, if it's in the area of a man's own discipline, then the most likely area, the most likely direction that he would take would be to bring it up at one of the subject meetings.

Q That is, if its's restricted to a particular subject?

A I'm saying, if it's in his own area and discipline.

Although he could, certainly, with full freedom, really, bring this up to a full faculty meeting, should he so desire.

The faculty then may suggest this go back first to be discussed at a subject area meeting.

If it is not within his area, then there again, as I said before, we're a very informal group, and there is no kind of a position or rank jeolousy in the sense of one man afraid to tred on another's toes.

He might proceed informally to make a suggestion to

his colleague, or he might bring this up at a full faculty meeting and make the suggestion.

Q Would that also be true, if it involved more than one subject area, including his own?

A Yes, it would be true for any suggestions he [2694] might have.

Yes.

Q You indicated before that the faculty will either reach a concensus or move to a vote on matters of interest to them.

Have there been cases when the faculty has reached a clear concensus on a matter of interest to them?

A I'm sure there have.

Q Could you give us any examples where the faculty indicated to you, or you are aware, that they reached a clear concensus on an academic matter, or other matter of interest to them?

A Well, the one that pops into mind first, because we're talking about it so much, is this curriculum area, and the faculty adopted the new format, and the changes and requirements, by a clear concensus there.

I don't believe there was a dissenting vote at the time.

Q Dean Rabinowitz, in your role as Dean of Erna Michael, how would you treat a matter in which—of interest to the faculty, in which the faculty has reached a clear concensus?

Such as in this curriculum area.

A As I indicated, I view myself as an executive officer, really.

[2695] Q What do you mean?

A I would simply carry out the mandate of the faculty, if it were in my province to do so.

Q And have these decisions arrived at by concensus of the faculty, become facts at Erna Michael College?

That is, have they actually been adopted at Erna Michael College?

A Yes, they have, and the Erna Michael College catalog indicates the real fruits of their labors, in terms of curriculum.

* * * *

[2702] Q Let me turn, Dean Robinowitz, to a managerial supervisory authority of members of the Committee on Academic Priorities and Resource Allocation.

Is there currently a committee of that name, functioning at Yeshiva University?

A Yes. There is a committee by that name.

Q Would you describe the membership of that committee?

A Well, the committee came about as a result of a resolution of the Graduate Council, which, last June I think it was, set itself up as a committee of the whole, to try to give more input into the question of academic priorities for the institution, and the allocation of resources of the institution.

At that time, we appointed Dr. Sokolow to be the chairman, and it suggested that the Undergraduate Council might want to join it in this venture.

Dr. Sokolow obtained the consent of Rabbi Graff, who was the Chairman of the Undergraduate Council, and sent out a meeting notice for these combined councils, which were to constitute this committee, for an August meeting.

I learned from a subsequent communication from [2703] Dr. Sokolow, which was sent out to all members of these councils, that not enough members apparently were in town during the summer months, so the initial meeting could not be held in August.

There have been two meetings of this body, one in October and one in November.

There is another one scheduled for tomorrow evening.

Q Have you attended the meetings?

A Yes, I was in attendance at both the October and the November meeting.

Q Are there faculty members on the Committee on Academic Priorities and Resource Allocation?

A Yes, there are.

The faculty members who are delegates, so to speak, to the Undergraduate Council, the faculty members who are delegates to the Graduate Council.

* * * *

[2706] Q Would you tell us what is the scope of the committee's interests?

* * * *

[2713] A The Chairman of the committee has given it a very, very broad basis of operation.

It can run from a review and re-evaluation of the goals and objectives of a given school, of the programs in that school, to a review and re-evaluation of such things as class size, staffing patterns, enrollment patterns, degree requirements, course offerings, admission standards, and these would be in the academic areas.

The committee will also have a broad basis of interest in students and their activities, student services, guidance efforts.

It will also be expected, in hunting around for priorities in the allocation of resources, to think about and evaluate physical facilities and their needs and their priority scale.

Organizational structures.

And then, even turn to methods of funding these things, which would include trying to figure out new [2714] ways of raising funds by philanthropy, or tuition, or any other means by which more funds could be raised.

Q Can you give us an example of what might be meant by the term, academic priorities?

What would be a priority, a decision as to a priority in the academic area?

A Yes.

The committee will be asked to determine priorities for given programs in the sense that the amount of funds available to the University is limited, and given this kind of recommendation power, which the committee has it will be asked to recommend this to the most effective way in which these funds can be used.

Recommending the most effective way would entail setting a priorities scale to say that program "A," at school "X," is more important than program "B," at school "X," or at school "Y," and that, in the competition for funds, program "A" should come first.

Q Would this have an affect on the number of faculty positions available in school "X" as oposed to school "Y?"

A Conceivably, yes.

Yes. I might add that this is the first time that this is being done on a University-wide basis, in this kind of a format. But, —

I've expressed this at the last meeting of this [2715] committee—this kind of evaluation and review did go on before, with various groupings, including faculty groups, chairmen, faculty welfare committees.

There was even a discussion about participated in, with the members of the A. A. U. P Chapter, at the Graduate Center, in which they were interested in how the University goes about some of these functions, and there was a protracted discussion, and their input was invited on each of these occasions.

But, these were individualized efforts, you know, school by school, or center by center.

This effort is one which seeks to unite all of these into one, major thrust.

Q Would you explain what is meant by the term, resource allocation?

A Allocation of available funds, and, I guess, this would also include use of facilities.

If we have a given number of classrooms, and we cannot afford to build more, or rent more classrooms, or laboratories, for that matter, and the decision has to be made, which class or which program or which school gets to use these facilities at a time, at a given time, then, clearly, these—this would have to—this would be determined by the priorities scale, which this committee will recommend.

[2716] Q Would that also have an affect on the faculty of the schools, various schools of Yeshiva University?

A Conceivably, yes.

If you have no physical facilities to meet in, then you can't run the class or the laboratory.

Q You mentioned the committee is given access to various materials.

Would you give us examples of what types of materials the committee is given access to?

A An—

Q In making their determinations.

A At the first meeting, one faculty member asked whether or not the committee would have access to financial data, and the reply was, yes, by all means.

Indeed, at the last meeting, there was a general distribution of the summary of the auditor's report, covering, I think it was three or four years, showing income and expenditures for the University, and the deficits for each year.

Q This distribution was made to the faculty members of the committee, as well?

A This distribution was made to all members present, which included faculty.

Q Could you tell us what subjects were discussed at the first meeting to which you referred?

[2717] A The first meeting was really a kind of a "getting-to-know-you" meeting, in the sense that a good number of the people really had no idea of what the committe was about, and there was a search for models which one might follow, and a general questioning by the members present as to exactly how does one go about this kind of a process.

In the second meeting, there were more concrete steps taken, including a memo, which was distributed, and I don't recall whether it was distributed at that meeting, or with the call for the meeting by the Chairman, which outlined the scope of the committee, as I have sort of narrated it here.

Q You mentioned that there was a search for various models for the committee.

Was any model finally adopted?

A No one model was adopted, but the Chairman did make available to members of the committee reprints of, I think it was the way Princeton's Budget Committee, or, I don't know what they call themselves, Priority Committee, went about its work, and, I think, there were one or two other schools represented in terms of reprints of their published material, so that there would be kind of a model and guide for committee members to follow and see precisely how one attacks it.

[2718] The assertion was made a number of times at both meetings, more so at the second meeting that the first, that if the committee were going to do its work seriously, there would, undoubtedly, be some painful decisions to be made, and my own feeling is, it will take a little while for committee members to get used to this kind of a process, and so, I don't know whether anything will come about, you know, in this meeting, or perhaps even the one after that, but, as the committee members begin to get used to the idea that hard decisions have to be recommended, then we will see, I hope, I hope, very great progress from this committee.

Q Would you compare that committee's authority in matters of academic priorities and resource allocation to that of your own in these matters?

A I would think, not think—

This being a University-wide effort, I hate to say this, probably carry a lot more weight than my own.

When I go to fight for my individual school, then I am very prejudiced, not at all objective, and I want to get whatever I possibly can, which would fill the needs of my school.

When the University-wide group sets out for the entire University, presumably, it has everybody's interest at heart, and it's making a fair and equitable [[2719] allocation of whatever resources are available.

So, that clear indication that their word or recommendation would carry more weight than mine.

* * * *

[2723] Q (By Mr. Bodner) Dean Rabinowitz, the topic that we were up to, was the supervisory role of Chairmen over full time faculty.

Would you describe for us the role of the Senior Professor in the hiring of full time faculty members at your school?

A Well, as I've indicated, I don't view myself as an expert in the eight different subject areas which comprise the curriculum of our school, and I will depend and do depend on senior professors to make recommendations, to investigate and check out vita of prospective

candidates, to interview them, and to meet with them, and then to recommend to me whether or not these people could make a contribution to the educational effort at Erna Michael Collect.

[2724] In that sense, I think that their work in this area is pretty much a determining factor as to whether or not a person gets hired.

Q Can you give us any examples of instances in where the senior professor played a role with regard to the hiring of a particular, full time faculty member?

Within recent years.

A Yes, I can.

Q Would you describe the process?

A Dr. Leaf is a Senior Professor in Hebrew.

We had need of a faculty member in that area, and there were several candidates which he brought to me, whom he brought to me.

It was his recommendation which led to the choice of one of the candidates over another, and, as I can recall, today, I think that in my own mind, I favored the other one for reasons of personality or verve, appearing verve, but we did take the one whom he recommended.

Q Did you take him because he was his recommendation as senior professor?

A I think that's a fair statement.

Q Are you aware of what Dr. Leaf did with regard to the—to determining which full time faculty member should be selected for the position, what process did he go through in determining which applicant was to be [2725] recommended?

A Well, part of the answer would be a guess and part of the answer would be as a result of a discussion that I would have had with him.

I'm aware that he looked through his publications.

I'm aware that he had talked with the man at length.

I would also hope that he checked with other institutions at which he had taught.

I don't really, now, recall whether or not he had told me that he had done so.

I think these were probably the only things that come to mind now as to the process which he probably was involved in with this faculty member.

Q Did you, yourself, recheck any of the sources that you understand Dr. Leaf checked?

That is, did you, prior to the selection of this individual, check his publications yourself?

A I checked the list of publications.

I am not an expert in Hebrew language as it should be taught, and I would really have no basis for determining whether or not a particular publication was indeed, a worthy one or a good one.

But, I depended on him.

Q Him being Dr. Leaf?

[2726] A Dr. Leaf, yes.

Q Have you ever hired a full time faculty member without the consent of the senior professor of the department involved?

A No.

HEARING OFFICER: Excuse me, Dean Rabinowitz, is the professor hired by, or hired on the recommendation of Dr. Leaf, still with the school?

THE WITNESS: Yes, he's still with the school.

HEARING OFFICER: Would you give me his name?

THE WITNESS: Mr. Wollman, W-O-L-L-M-A-N.

HEARING OFFICER: When did the hiring take place?

THE WITNESS: As best as I can recall, about four years ago.

HEARING OFFICER: Thank you.

Q (By Mr. Bodner) Now, Dr. Rabinowitz, what if a situation arose where you had to eliminate a faculty member for budgetary reasons within a department, how would you go about doing that?

What would the role of the senior professor be in that process?

A This is more than a hypothetical question, actually.

It did occur in one instance during my tenure as Dean.

[2727] Our enrollment dropped, and we found ourselves overstaffed in Talmud.

At that time, there was a Chairman of the Talmud Department. He's no longer with us, he had transferred to another unit of the university, or an affiliate of the university.

I discussed the matter with that person, the problem of being overstaffed in Talmud, and asked for his suggestions and recommendations as to how we might go about correcting that.

Together, we arrived at the name of an individual who would be affected, and together we worked out a program to cushion the separation, by changing the man from full time to part time, and with the notification that that year would be his last, and this procedure was followed.

The faculty member in question is no longer with us.

Q Would you describe for us the role that the senior professor played in determining which particular faculty member would be so affected?

A I guess that the name which was settled upon was, basically, done on his recommendation.

I think it would also be fair to state that part of his recommendation was probably motivated by the fact [2728] that this man was one of the new—newer people on the faculty.

Q Are you aware of what process he went through in determining which individual it ought to be?

A Not really.

Q Okay.

HEARING OFFICER: Was the faculty member who was discharged, the lowest in seniority?

THE WITNESS: If he was not the lowest, he was the lowest within a year or so.

In other words, as I recall, there were two people who had arrived either at the same time, or one a year before the other.

I think that the one whom we settled on had arrived a year after—had arrived, I'm sorry, had been serving at the University for one year longer than the other person whom we still have on our faculty.

Q (By Mr. Bodner) So that it was not the least senior?

A It was not actually, in fact, the least senior, but, as I say, very close to it.

Q Dr. Rabinowitz, would you describe for us the role of the senior professor with regard to your evaluation

of the value of each faculty member within a department for purposes of retention, salary, and so forth? [2729] MR. SHECTMAN: Could I have the question read back?

(Whereupon, the requested question was read back by the reporter.)

A The evaluation of a faculty member is a somewhat complex process.

There are probably a number of factors which go into it.

I, myself, have never entered a classroom to observe teaching by a faculty person. However, I have asked several senior professors to do so, two that I can recall of right now.

One did not, to the best of my recollection, and the other one did, and, after his visit to the classroom, we sat down to discuss what he had seen and what his recommendations were.

This was a part of an evaluative process.

A second significant part of an evaluation process really takes place in the subject area meetings, where, as I've indicated, all the faculty members in a given subject area will meet together to discuss what is going on in their own courses.

The senior professor will, almost invariably, take the lead in seeking information and questioning and evaluating the role of the faculty person in the teaching of [2730] the specific course.

From time to time, it has also happened that senior professors will come in to me, and I have repeatedly asked them to do so, to share with me their feelings or feedback, as I call it, on the effectiveness of teaching.

This has been done on a solcited basis, by my request.

This has also been done unsolicited, where a faculty member will come in and say that I have learned the following, or I have heard the following, would you like to pursue this, can we check this out, or what have you learned, or something of this order.

Q What weight do you generally give the comments and recommendations of the senior professor in these matters?

A The term, "weight," is hard to go back and define, or evaluate at this point.

But, as I've indicated, I really rely, to a great deal, on them, because my assumption is that they know more about the subject areas which they head, than I do.

So, if I had to use the word, "weight," in a relative sense, I would say that I give more weight to their evaluation than I would to my own, especially as it concerns curriculum matters.

Q Dean Rabinowitz, could you estimate for us, the [2731] amount of time that a senior professor spends in all the functions we have just discussed, with regard to the hiring process and the reviews of the material prior to the hiring process, with regard to the evaluation process, and with regard to the retention or termination process of full time faculty members?

A I don't think I could really give you a figure for the amount of time.

A lot of it, of course, would depend on whether or not there was a hiring process in motion.

When we are looking for somebody, then it might involve a good number of hours, reading vita, soliciting information, checking references, even going to the library to check out publications and so forth.

No real handle by which I could give you an exact figure for it.

The evaluative process is also an ongoing one, and it's hard to separate this thing into little blocks of time, to say, so much for this and so much for that.

What I could say is that I regard it, and I think the faculty people, themselves, regard it as an integral part of their position, their responsibilities at the University.

* * * *

[2732] Q (By Mr. Bodner) Can you describe it with regard [2733] to Dr. Leaf, for example, during this past academic year?

Can you estimate the approximate number of hours he might have spent—he spent, to your knowledge, in activities of this nature?

Of this nature, being the hiring process, the evaluation process, the retention process.

A During this past year, there were no hiring process in motion.

The visit which I referred to, I think, took place at the beginning of the 73-74 academic year.

To put a figure of time on it would be a guess.

MR. SHECTMAN: I'll object then, if the witness is going to put a guess into the record.

MR. BODNER: I'll withdraw the question, if it can't be determined.

Q (By Mr. Bodner) The next subject area is the role of the Chairman, the supervisory role of the Chairman, with regard to part time faculty.

Dean Rabinowitz, would you describe the role of the senior professor in your school with regard to the evaluation of part time faculty members?

A It corresponds fairly closely to the role which they play in evaluation of full time faculty people.

Q What does it involve with regard to their role, vis-a-vis part time faculty?

[2734] What processes do they engage in, in the evaluation process?

A Again, there would be subject area meetings which would be of prime concern.

Examination, perhaps, of the syllabi, and course outlines which are submitted by the part time people for the courses which they're going to teach.

I do not recall specifically, although it may very well have taken place, a visit by the—by the senior professor to the part time faculty person, unless Mr. Sabban was a part timer at the time that Dr. Leaf visited his classroom.

I don't recall.

Q Do you, yourself, as a matter of general practice, visit the classrooms of the part time faculty members who are teaching in your school?

A No.

I never visited a classroom for observation purposes, either full time or part time.

Q When you feel that observation is necessary, or appropriate, who engages in such observation for you?

A I would ask the senior professor.

Q And have you actually done that in recent years?

A Yes, I have done, as I have indicated.

HEARING OFFICER: You indicated above, you would [2735] ask two professors to observe, and one did and one didn't.

Were they asked to observe the same person?

THE WITNESS: No.

HEARING OFFICER: Two different people?

THE WITNESS: In two different subject areas.

One in Hebrew, the other one in Bible.

Q Where the senior professor evaluated or observed the part time faculty member within his department, did he, subsequently, make a recommendation to you?

MR. SHECTMAN: I object to the question, in that the witness seems to have testified already that there was no evaluation of a part time faculty member.

MR. BODNER: I disagree.

The witness' testimony was to the contrary.

Q Will you clarify, Dean Rabinowitz, has a senior professor evaluated a part time faculty member?

A I've indicated that the senior professor would have taken part in the evaluation of a part timer at the subject area meetings, which I distinctly recall.

I have said that I do not recall, specifically, a visit to a classroom, where a part timer was concerned.

Now, in—at the subject area meetings, certainly there would be no distinction made between part timers and full timers, in terms of evaluation of their work.

HEARING OFFICER: The person observed by the [2736] senior professor you asked to observe, was he a full time faculty member?

THE WITNESS: Actually, there were two.

Ho observed both Mr. Wollman and Mr. Sabban.

What I cannot recall, at this point, is whether Mr. Sabban was a part timer or a full timer at the time of his observation.

Q Dean Rabinowitz, can you estimate the amount of time senior professors spend each academic year, with regard to these functions over part time faculty members?

A No, I really cannot.

Q Okay.

The next subject is the Associate and Assistant Deans.

Dean Rabinowitz,—

These will be very brief inquiries.

Are there any Associate or Assistant Deans in your school at this time?

A No.

Q Have there been Associate or Assistant Deans in recent years?

A No.

* * * *

CROSS EXAMINATION

[2761] Q (By Mr. Shectman) Dean, you indicated, did you not, that you took part in the negotiation and fixing of part time faculty salaries?

MR. BODNER: Can you read that question back?

(Whereupon, the requested question was read back by the reporter.)

A I don't recall if I used the term, negotiation, in the sense of part time salaries.

I think that what I said was that there was a [2762] range of part time salaries in existence at Erna Michael Collect from 1,400 to $2,000.00, for a four hour block per year.

Q When a part time faculty member is hired, how is his salary determined?

A Based on his experience and our need for him, he would be slotted someplace, generally speaking, in this block.

There frankly is somebody, or could be somebody who would even be out of the block. Most usually in the upper range.

But that would be somebody whom I wanted very much, or who fulfills a particular important function.

So that, while this is not in the strictest sense of the word, a scale, I use it much in the same way that a scale would be used.

When a man comes to you, you may have an opening, depending on his credentials, depending on the recommendations which you have from your chairman or senior professors, as the case may be, where you might want to slot this man, start him at the first step, the third step, or where ever else it might be.

Q Who will slot the man?

A This, as I say, will depend.

Q Who will slot the man?

[2763] A This will depend on the kind of recommendation that I get from the senior professor, and then I will do the actual slotting.

Q Did you, in any way, take part in fixing the salaries of Rabbi Derovan?

A Yes, I did.

Q And did you slot him in at a full—at a part time salary?

A Yes, I did.

Q And, likewise, with Dr. Cohen?

A No, I did not.

Q With Rabbi Serels?

A Did I participate in slotting Rabbi Serels?

I think that what happened with Rabbi Serels was that he was approached by the Sephardic Studies Program, in the larger sense, and offered an opportunity to work in that program.

A part of that was projected to include giving a course at Erna Michael College in his particular area, relating to the Sephardic Studies Program, and his salary, overall salary, at the Sephardic Studies Program, includes that responsibility.

Q Did you make any recommendation as to the respective salary that might be attributed to his teaching at Erna Michael?

[2764] A No, I did not.

Q With regard to Dr. Abraham Stern, did you slot him in a part time faculty salary?

A Yes.

* * * *

[2775] Q Do those members have your approval for their employment outside the University?

A Yes, they do.

Q It is required that they have your approval?

A This is the understanding, but this is—this has been for some time now.

Q Is it not, in fact, the case that such approval is required by the faculty handbook for all full time faculty?

A Yes, it is.

* * * *

[2777] Q Have members of your full time faculty received any salary increases this academic year?

A Yes, they did.

Q When were those effective?

A For this academic year.

Q When were they determined?

A They were determined as a result of the joint discussions which the University held with the Stern College and Yeshiva College Welfare Committees.

Q Did those committees establish salary schedules?

A I guess the term, schedule, might be quarreled a little bit with, but they did establish a pattern for the next two years.

Q And that pattern will effectuate automatic increases for full time faculty for the next academic year?

A That pattern has brought about increases.

Q It will also, for the next academic year?

A I hope so, yes.

I believe so.

Q Has the salary rates of your full time faculty historically been related to those of the Yeshiva College [2778] and Stern College faculty?

A Yes, they have been related to them. Yes.

Q Have they historically grown out of, as you've said, discussions between those Welfare Committees and members of the administration?

A By and large, I would say, yes.

Now, there may have been an exception here or there, but, as a pattern, this is true.

Q As a pattern, have those discussions in any way determined the points at which you slot in part time faculty members for salaries?

A Not directly, but I would say that, as the salary scales went up for the full time people, I would have a larger inclination to make every attempt to slot somebody at a higher slot.

Q That would be at your discretion, would it not?

A That would be at my discretion, based on recommendations and all the other factors that I mentioned before.

Q Did you have discretion in the increases that were granted to your full time faculty this year?

A Discretion would imply a merit system.

Q I'll talk about—

Let me ask the question this way, then.

I'll withdraw the question.

[2779] Did you have discretion as to determining the minimum salary rates for your full time faculty this year?

A Not below the slot which is extent.

In other words, I could not hire a faculty member at less than, I think the $7,000.00, which is the lowest slot.

No member of my faculty, may I hasten to add, for the record, is making only $7,000.00.

Q I'm not talking about hiring now, I'm talking about full time faculty who have continued in your employment.

Have you had any discretion in fixing their salary rates?

A I say again, to have discretion would imply a merit-giving one more or less, depending on his work. That system is not operative at Erna Michael.

Q Are your senior faculty members paid pursuant to the salary rates or schedules we've been discussing?

A Would you define senior?

Do you mean senior professors?

Q Yes.

A Yes, they are.

Q Do they reecive any kind of increment, whatsoever, for serving in the position of a senior professor?

[2780] A No, they do not.

Q Do they receive any equivilency status in lieu of contact hours for serving in that capacity?

A No, they do not.

Q Is your salary determined according to the salary schedule and discussions between the Stern and Yeshiva College Welfare Committees and administration?

A I would say, almost indirectly, yes.

Because the pattern has been in recent years, when there have been significant changes in a salary schedule for faculty, without my asking for it, and to my knowledge, without any other administrator asking for it, there has been a corresponding, some increase for administrators' salaries.

That's indirect.

Q You are a full professor, are you not?

A I'm an Associate Professor.

Q An Associate Professor.

How many years have you been with the University?

A Since 1957 on a full time basis.

Q According to the salary schedule, would an Associate Professor, with your degree of seniority, have a set rate for a salary at Erna Michael?

A Yes. he would.

Q Are you paid at that salary rate?

[2781] A No, I'm not.

Q You, in fact, receive some increment, do you not, for serving as a Dean?

A Yes, I do, for no summers and sixty hour weeks.

* * * *

[2798] Q (By Mr. Shectman) Dean Rabinowitz, you referred to your faculty, I believe, as, a quote "informal group," did you not?

A Yes.

Q I assume that's likewise true for your sub-faculty groups in the various subject areas, is it not, they're informal groups, as well?

A You mean, are the subject area meetings informal?

Q All right, yes.

Subject area—

A Yes.

Q (Continuing)—meetings, are they informal?
[2799] A Yes.
Q And who will normally attend the subject area meetings?
A All people who are engaged in the teaching of the particular subject which is meeting.
Q And what normal or what subjects are likely to arise at those meetings?
A Well, there is really a bit of a pattern to the meetings.
They will begin with an instructor detailing what is currently occurring in his class, what material is being covered, where they're up to, where they expect to be at the end of the semester.
Something about the nature and the number of the examination which he is giving, the amount of outside reading which he requires in his course.
After this goes around for all instructors,—
Q That includes professors?
A That includes everybody, professors, instructors, part timers and full timers.
They will then turn to the question of suggestions for new courses, if they feel there's a need for them.
As a final item on an adgenda would be the question of the comprehensive and qualifying examinations.
I say, this is a normal pattern. But in reality, [2800] any subject which can affect the teaching or the course sequences or whatever for that subject area, can be brought up.
Q For instance, is the matter as the calendar, the tri-mester, semester, that could be brought up in a subject area meeting?
A That could, but it would more properly be handled at a full faculty meeting.
Because that affects all subject areas.
Q Would these subject area meetings deal with some evaluation of the programs within that subject area, as they're being taught, or maintained and developed?
A By programs, you mean, courses?

Q Yes.
A Yes, by all means.
That is the core of the meeting.

* * * *

[2801] Q Do you have any knowledge of whether a subject area meeting has ever been concerned with considerations or recommendations for the hiring of new personnel?
A When it will be the consensus of a subject area meeting that a new offering ought to be included in the Erna Michael program, and it will be found that no one currently on the faculty has either the time or the background to teach that new offering, and agreement might be reached that it would be a wise thing to hire somebody.
But, to my recollection, this has not included a specific person, ever.
Q You testified that a senior professor will take part in this?
A Yes.
Q Do you have any knowledge of whether a senior professor has ever consulted with other members of his subject area as to hiring?
A I don't have any knowledge of it.
I think it would be a fair assumption that there is a good amount of conversation between faculty people.
Q Likewise, would the termination of a faculty member be subject to that conversation?
A As I've indicated, terminations have not occurred with any kind of regularity or frequency that would [2802] likely arise as a subject of conversation between faculty people.
There has been the termination of only one full time member in the years that I've been there.
Q That's been how many years?
A 1968.
Q And how many people have been hired in the last three academic years, approximately?
A Full time people?
Q Full time people.
A Two, I think.

Q How many part time?
A Likewise, two.
Q Do your senior profesors take part in subject area meetings?
A Yes, they do.
Q Do those meetings act by vote or concensus?
A Most often by concensus.
Q Do you have any knowledge of any time a senior professor overruled or acted in any way against the concensus of the faculty within the subject area?
A My best recollection is that there have been—there has always been agreement between them, and I don't really recall a meeting adopting any posture which would have received really a strong objection form any member [2803] of the group.
Q As Dean of Erna Michael College, do you formulate budget for each academic year?
A For the past three years, it has not really been a question of formulating a budget, because we have been on a, what's called a zero growth budget, so the figure which was available to me, to the school, in the prior year, you know, was, theoretically at least, available for the next year.
Prior to that, we made extensive efforts to cut the budget, and, as a member of the Budget Committee, I was wearing two hats, and had a very difficult time.
Q In this period of zero growth, where you had the same amount of money available to you each year, do you have discretion as to the allocation of those funds?
A Not really very much, because the faculty salaries are there, and there is a very, very little else in the Erna Michael budget, aside from faculty salaries.
Erna Michael has a part time secretary, and myself as the only administrative officer.
There is a very small amount of funds for O. T. P. S. for other than personnel services.
Q And you allocate those funds?
A As I said, they have been, in a sense, fixed.
Faculty salaries are set by the process.
[2804] Q I'm talking about the O. T. P. S.
A I even hate to use the term allocate for that kind of money.

Q You're on the University Budget Committee?
A Yes, I am.
Q What is the function of that committee?
A That committee was asked to review all of the budgets of the University, with a view towards decreasing University overall deficit.
Q How long has that Budget Committee been in existence?
A I have been involved for, I think, it's only four years, but it seems like twelve.
Q Was the committee in existence before your involvement?
A Yes, it was.
I was given a replacement task or asked to replace Vice-President Levin, who left, I think, in '70, '71, or thereabouts, I'm a little bit hazy about the exact date, but, at the time of his leaving, I was asked to replace him.
Q In that committee, its efforts to reduce the budget, what specific functions has it performed?
A It has met with all kinds of groups around the University.
[2805] Its basic, direct liaison is with the Dean of the school, but on request of the Dean, or on the request of other parties at the University, with the approval of, or at least the non-objection by the Dean, we have met with diverse groups, including Welfare Committees, including a chapter of the American Association for University Professors, including student groups.
We have scheduled an open meeting for all members of the University family.

* * * *

[2806] Q (By Mr. Shectman) In the last three academic years, Dean Rabinowitz, have you, as a member of the—of the University Budget Committee, met with welfare committees of various of the schools of the University?

* * * *

[2808] A Yes, we have met with welfare committees.
Q Of which schools?

A The Joint Welfare Committees of Yeshiva College and Stern College, the Wurtzweiller School, I believe it was the Welfare Committee of Ferkauf that we met with.

We also had met with department chairmen of Ferkauf, that's why I'm a little bit vague.

We met with a group from Belfor, which was either department chairmen or welfare committee. I don't remember which.

Q In the course of those meetings, did you take part or did the committee take part in fixing or coming to terms on salary schedules or salary rates for the faculties of the respective schools?

MR. KRAMER: Can I hear that question read back, please?

[2809] (Whereupon, the requested question was read back by the reporter.)

A In all of the areas, there were discussions about them.

For many of them, there was a question—we did come to an agreement as to recommendations to take to the President.

Q As a member of the University Budget Committee, are you generally aware of the settlements arrived at by the respective welfare committees of each of the schools that have welfare committees?

A At the time that they're made, I generally would be aware of settlements that are made.

Q Do you know of any school of Yeshiva University that pays any separate or sepcial increment to departmental chairmen or senior professors?

A When we talk at these budget meetings, it's the overall budget of a school, which is under discussion.

The budget committee has never really told the school as to how to spend its funds.

I have really no idea of the individual salaries of any member of any facility, other than my own.

What I do have in mind is a line which says the faculty salaries in toto.

* * * *

[2817] Q Is that applicable at Erna Michael College?

Is there a specific review at the end of seven years or before, to determine formal tenure status?

A No, there is no specific review at a seven year period.

* * * *

[2821] Q You previously testified that you asked the senior professors for their evaluation with regard to faculty members.

When you did so, did you indicate to them that in their evaluation, they were required to obtain the views of the faculty members in their department?

A No. I made no such request or indication of [2822] them.

I simply left it to them.

* * * *

[2824] Q (By Mr. Bodner) Do you have a basis —Do you know, Dean Rabinowitz, whether the senior professors' judgments were based on their own evaluation or a consensus of the faculty of their school?

A Well, in several instances, by no means all, but in several instances, what I had asked for an evaluation from a senior professor, I received an on the spot, almost immediate evaluation from him.

Now, whether or not this was a part of an ongoing process which he had been following in response to my request that these evaluations take place, and, in that process he had consulted others, I do not know.

But for those instances, at least where the evaluation was forthcoming, in our—following my request in our initial—in our conversation, I was led to believe that they were the evaluations of the senior professor, himself.

Q When you requested, as you previously testified a senior professor to attend the classes of a faculty member, did you require or indicate that you simultaneously [2825] sought the same from other faculty members in his department, that is, was it his sole presence in the classroom, or did you ask that a group of faculty members from his department go into the class?

A I never made this request of anyone else but a senior professor.

Q Do you know whether the senior profesor visited the class on his own, or with a group of faculty members?

A From his subsequent evaluation. I best recall he visited on his own.

Aside from the fact that it might be awkward to come in with a group of people.

* * * *

RECROSS EXAMINATION

[2831] Q (By Mr. Shectman) Dean Rabinowitz, are you on the Executive Council?

A Yes.

Q Are you on the Council of Undergraduate Schools?

A Yes.

Q Under what document are those councils formed and established?

A The Executive Council is an outgrowth of an idea which was not acceptable to faculty back a number of years back, and I'm not sure that there is a document which established it, other than a presidential request.

* * * *

[2847] RABBI MORRIS J. BESDIN

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Boder) Rabbi Besdin, would you tell us your position at Yeshiva University?

A Director of the James Striar School. General Jewish Studies.

Q Would you tell us the nature of the James Striar School?

A The James Striar School is intended for students who do not have sufficient background in Jewish Studies to qualify for the two other schools which are on a [2848] higher level of Jewish Studies; namely, E. M. C. and Y. P.

Q Would you tell us what Y. P. stands for?

A Y. P. stands for Yeshiva Program, and it is, in some respects, the more advanced school, certainly in the area of Talmudic study.

MR. SHECTMAN: Can the witness tell us what E. M. C. is?

THE WITNESS: E. M. C. is a school that was, I think, amply described by Rabbi Rabinowitz, and it serves mostly to students who have come through the Yeshiva High Schools and whose interests goes beyond mere Talmudic study.

Q Is E. M. C. intended to refer to Erna Michael College?

A Erna Michael College, yes.

Q Rabbi Besdin, when was the James Striar School founded, if you know?

A The James Striar School began in 1956, under another name.

It was then known as the Jewish Studies Program. And it was organized, not as a school, but more as a department within the College, to serve students with the background that I described; namely, students who couldn't qualify for the other two schools.

[2849] It continued under that name until 1965.

In 1965, the name was changed to the James Striar School of General Jewish Studies.

It was founded in '56. With the opening class.

Q How long have you been the Director of the James Striar School?

A Since fall, 1958.

May I correct this?

I have been, in a sense, the Director of the James Striar School since fall, 1958, but, originally, my title was not that of Director, that of Chairman of the Faculty.

I don't recall the exact year when the title of Director was given me.

Q Do you hold a faculty rank at Yeshiva University, Rabbi Desdin?

A No.

Q Have you ever taught a course in any unit at Yeshiva University?

A I have been teaching from the very first year that I came to J. S. S., and am presently teaching ten hours per week.

Q At what school?

A At the James Striar School.

Q Have you taught at any other schools of the * * *

[2850] A I taught in E. M. C. as it was then known.

It was first known as the Teacher's Institute, before it assumed the name E. M. C., and I am—I taught there then.

And I am presently teaching one course in the Stern College for Women.

Q So as not to confuse the record, I would note that there is currently in existence a Teacher's Institute for Women?

A Yes.

Q At the present time?

A I also taught there one year.

Q What was your position at Yeshiva University, prior to the time you assumed the role of Chairman of the Faculty, as you said it was originally called, or Director?

A For the first two years of what was then called the Jewish Studies Program, I taught, I think, one course in Bible each year.

I was then the Rabbi of a congregation in Long Island, and they had a stipulation with the congregation that I would take one day off a week.

A Rabbi works on Saturday, is occupied on Sunday, and the day that I took off during the week, I devoted to teaching. Always.

* * * *

[2852] Q Rabbi Besdin, in preparation for this hearing, did you, at my request, prepare a list of all faculty teaching at the James Striar School?

A Yes, I did.

Q That list would be faculty teaching at the James Striar School in the fall semester of 1974-75?

A Right. That's correct.

Q I show you a copy of this document.

Is that the list that you prepared?

A Yes, I did.

It is the list that I prepared.

[2853] MR. BODNER: I would ask that this be marked for identification as Employer's Exhibit 118.

(Employer's Exhibit 118 was received and marked for identification, of this date.)

Q (By Mr. Bodner) Rabbi Besdin, would you briefly explain to us what the first column represents, starting with the word, "Bible?"

A Well, this represents a study area at the school, namely, Bible.

Q I see.

Are the other designations under that, also, study areas at your school?

A That is correct.

Q Would you tell us what you mean by study areas?

A Well, the school begins on the elementary level, and deals with basic subject matter, and the subject matter which is taught in the school is divided into five areas.

One area is Bible, another area is History, another is Hebrew, Hebrew language, another area defined as Judaic Studies, and, lastly, Talmudic Literature.

Bible is one of the five areas of the curriculum of the school.

Q I take it that these are somewhat comparable to [2854] what would nore formally be called departments in other schools?

A In a sense, yes.

* * * *

[2855] Q And, in that column, I notice the designation, Chairman, next to the name of professors in the department of Bible and Talmudic Literature?

A Right.

Q Are these the only two departments that have chairmen?

A These are the only two departments that have chairmen, Bible and Talmudic Literature.

* * * *

[2875] MR. BODNER: I would ask this be marked for identification as Employer's Exhibit 120.

(Employer's Exhibit 120, was received and marked for identification, of this date.)

Q (By Mr. Bodner) Rabbi Besdin, would you tell us how you have indicated on this Exhibit the names of faculty who have part time status in the James Striar School, in the current academic year?

A You mean in Exhibit 120?

Q In Exhibit 120.

A There's an asterisk next to the name of Rabbi Riskin.

Now, Rabbi Riskin was appointed to this committee [2876] when he was a full time member, and still retains membership in this committee.

Q You say, still retains.

That is, even in this current academic year, when his status is as a part time faculty?

A Yes.

Q Are there any other committees of the James Striar School, other than those listed on this Exhibit, in current academic year?

A No, sir.

Q In past academic years, within the last three academic years, were there any other committees of the James Striar School, other than those designated on this Exhibit?

A No, sir.

Q Would you briefly describe for us the role of the committee designated as Student Faculty?

A The Student Faculty Committee consists of six members, three students and three faculty members.

The James Striar School Student Organization selects the three student members, and recommends to the administration, the members of the faculty whom they would like to have on this committee, and, in the past, those faculty members who were recommended by the students were approved by the administration.

[2877] Q What does the Student Faculty Committee, essentially concern itself with?

A As the catalog states, it is involved in the plans and issues and problems and criticisms in regards to education and administrative aspects of the School, and makes appropriate recommendation.

It covers the entire operation of the School.

Q When you refer to the catalog, that is the catalog—

A On Page 21, I think.

Q In evidence as Part 22-A of Board Exhibit 2.

Rabbi Besdin, the next committee is designated, Committee on Promotions.

Would you tell us what this committee is concerned with?

A This committee is concerned with the possibility of recommending members of the staff who have the status of instructor, to be promoted to the rank of assistant professor.

We have no higher rank.

Q Has the committee been active in this current academic year?

A No.

* * * *

[2879] Q The last committee designated on this Exhibit for identification is designated, Evaluation of Hebrew Instruction.

Would you tell us what the function of that committee is?

A The function of this committee is to evaluate the effectiveness of the instruction in Hebrew language at the James Striar School.

Frankly, we've been having good number of difficulties with the courses that aim to give the students a proficiency in the Hebrew language, and we have been changing texts and we've been reordering the curriculum, and this committee has been working on this educational problem at the J. S. S.

* * * *

[2880] Q (By Mr. Bodner) Rabbi Besdin, turning to the subject of part time faculty, in terms of their governance functions, do the faculty members of the James

Striar School meet as a body to discuss and make decisions on matters of interest to the faculty?

A Yes, they do.

Q In what form do they hold those meetings?

A Meetings are held at the conclusion of each semester, and infrequently, at special meet—special meetings are called for special purposes.

But there are at least two faculty meetings held each year, and part time members are invited to these meetings, as well as full time members, and they attend and participate in discussions, and where ever decisions are made by vote, they vote equally, with the full time members.

[2881] Q Are there written by-laws governing such meetings?

A No.

Q Could you give us some examples of the types of matters under discussion at such meetings?

A Well, almost everything relating to the school comes under discussion at these meetings.

Matters that are suggested by the Student Faculty Committee are brought to the facutly meetings.

Matters relating to courses, to curriculum, matters relating to regulations, administrative regulations, absences, testing.

And, very often, matters relating to methods of teaching.

I can recall a number of meetings where the methods of teaching Bible, for instance, teaching Talmud, or teaching Hebrew, were discussed at great length, and, very frequently, almost always, I should say, members who were not in the department, so to speak, or in the study area that was being discussed, participated equally with members in the department, and decisions were reached, and decisions were made that were effectuated by the administration, and the governing—the student faculty—rather, the faculty meetings are, in a sense, in a great sense, decisive as to the direction of the school.

* * * *

[2888] Q (By Mr. Bodner) Rabbi Besdin, are there any instances indicated in the minutes of this meeting,

in [2889] which a decision was made by the faculty on the matter of interest to them that was contrary to your personal viewpoint?

A Yes, there is.

Q Would you describe that for us?

A Well, we have a full guidance program for our students, who had more problems than students of the other Jewish Schools, in terms of adjustment to the school, to the environment of the school, to the standards of the school, because the vast majority of them did not attend the day school, and for them, adjusting to the Yeshiva environment sometimes constitutes difficulty or a problem.

So, we have this guidance program, and for years it functioned in the following manner.

An instructor teaching a particular class would be assigned to do guidance in that class. He would be teaching—He would be paid for two hours of guidance, and he would do the guidance in his office at the school, and he would call, or prearrange with the student to meet him in conference for guidance at a particular hour.

Now, normally, a student does not have any free hours in J. S. S. during the days of instruction, Monday, Tuesday, Wednesday and Thursday, because every student is required to take sixteen periods of Jewish studies, [2890] four periods each day.

The instructor would then call the student, or prearrange with the student, if the conference was prearranged, the student would leave whatever class he was attending, and would meet with the instructor for half hour or longer, as long as was necessary.

Now, this—this system of guidance was maintained for a number of years, and then some of the senior students began to object to it. They didn't feel right about being called to guidance. They preferred to initiate a request for guidance, rather than to be called.

The instructor would call each student in order, sometimes, alphebetically, and through the student guidance—Student Faculty Committee, a recommendation was made that this practice be limited to the freshman class only.

Those who require the most guidance as described.

This was taken up at this meeting, and it was—there was a good deal of discussion and some argument.

My own feelings, as stated in these minutes, were that it would be best to maintain the old system, where every student would meet with his guidance instructor at least once a semester, would be called out of class for that purpose.

However, some members of the staff supported my [2891] position, some members did not.

The decision was taken, a vote was taken on this, and the—I was—my view was overruled, and, as I remember correctly, basically because it was the recommendation of the Student Faculty Committee.

It was a direct, specific recommendation to the faculty. So, the faculty decided to follow that recommendation.

Q When you say, your view was overruled, it was overruled by the faculty?

A Yes, at the meeting.

* * * *

[2895] Q Rabbi Besdin, would you describe the role of your faculty with respect to determination of admissions requirements, degree requirements, curriculum, at your school?

A The faculty is involved in great—a great deal in curriculum.

[2896] Because curriculum matters are taken up regularly at all faculty meetings. The—

May I?

Q Yes.

A The matter of admission was dealt with several years ago at one of our meetings, and I think it is mentioned in the 1973 meeting we dealt with shortly, the problem came up with regard to qualification for admissions Office at Yeshiva and by me, personally, and the—

However, I will state this. That admission and policies of admission are, have been discussed at various meetings of the faculty, and recommendations were made by the faculty, that were subsequently implemented by me.

I handle admissions directly.

Q Who would you consider the decision making body with regard to such academic matters as we have been discussing?

A I would say, the faculty and myself.

We have a very informal, intimate faculty.

Most of the full time faculty are, some of them are classmates of mine, and some of them I have known for many, many years, and most of the—most of the members of the faculty were selected by me, and most [2897] of the time, we are in agreement on basic matters, relating to curriculum and the method of instruction and so on.

So, at most of our meetings, decisions and recommendations are made by concensus.

Occasionally, there will be discussion and disagreement.

Mostly, by concensus.

Q Consensus of the faculty?

A Consensus of the faculty and myself.

I have had very—I don't recall any—I don't recall any occasion where I overruled a direct recommendation of the faculty.

The exact—At this coming meeting, in about ten days, I'm going to take up the matter of guidance again. But I wouldn't change it without the approval of the faculty, because I'm unhappy with it, it isn't working properly.

* * * *

[2923] Q Rabbi Besdin, turning to the managerial or supervisory role of the faculty, would you describe your role or function as Director of the James Striar School?

A Well, I direct the operation of the school, on a daily basis.

I am responsible, together with the faculty, for curriculum, regulations that relate to the school, attendance, grading, testing.

I'm the executive arm, so to speak, in one sense I'm the executive arm of the faculty.

However, I administrate the school myself.

I seek advice frequently of faculty members, but that responsibility I assume myself, direction of the school.

Q When you say you're the executive arm of the faculty, how does the faculty arrive at its determinations on various issues?

A Through its meetings, regular faculty meetings.

* * * *

[2924] Q Have you, Rabbi Besdin, ever overridden the concensus of the faculty on a matter of interest to them?

* * * *

A I cannot recall overriding a concensus of the [2925] faculty.

Q To your knowledge, has a concensus of the faculty on any academic matter ever been overridden by any other administrator at Yeshiva University?

A Not when it related entirely to J. S. S.

We had instances where a recommendation would be made that more credits be given, or P. & F., that kind of recommendation, which involved the Registrar's office and sometimes involved the Dean of the college.

In such instances, the Registrar would say, we can't do this, we shouldn't do this, or the Dean would say, since their credit is transferred to the college, on—from the James Striar School, the Dean would have a say in such matters, where it related to the college or the Registrar's office.

Q Turning to the subject of the role of chairmen, vis-a-vis full time faculty, would you describe the role played by the chairmen in the selection of full time faculty at the James Striar School?

A You have reference to the two chairmen?

Q Yes.

A The Chairman of the Bible, and—Chairman in Bible and Chairman in Talmud?

Q Yes.

A Their status, in terms of engaging new faculty, or [2926] their contribution, would be in a consultative capacity.

I would—I have, in the past, consulted Rabbi Oratz, who's been teaching Bible, I think, as long as I've been with the James Striar School, and—in matters pertaining

to the—to engaging an instructor in Bible, and I have alwyas consulted Rabbi Siff in matters relating to Talmud, including such matters relating to the engaging of another instructor.

Q Have you ever hired a full time faculty member in a department in which there is a chairman without consulting the Chairman?

A I don't think so.

Q When you asked for the views of the Chairman, did you request or imply that he was required to base his views on his consultation with other faculty of his department?

A No, sir.

That does not mean he didn't do so.

I did not direct him to do so.

Q Would you tell us the procedure involved in a department where there is a chairman, when a faculty member has to be terminated for budgetary reasons?

A Well, this year, for the first time, there was—there is a situation where one of our full time members is under severe criticism by the students, and this, of [2927] course, has been going on for more than a year, didn't begin this year, and this, of course, constitutes a problem for the administration.

The students come to me.

The first thing I did was consult with, to the Bible Department. I consulted with Rabbi Oratz, and discussed the situation with him, asked for his advice, followed his advice in this matter.

I met with the instructor, I asked—I asked him to meet with the instructor, discuss the problem that I noted to him, that he had in his class.

I think he met with the instructor, I wasn't there.

I met with the instructor.

We're working on it. Still pending.

This is how the school operated in this particular instance.

Q With regard to evaluation of a faculty member's ability as a teacher, what weight do you give to the views of the Chairman of the department, where there is a chairman involved?

A It's hard to answer this question, because chairmen do not visit classes.

I do not visit classes, except for inquiring about attendance or the mechanics or something that requires immediate attention.

[2928] The feedback from the students comes from the Student Faculty Committee, sometimes by petition of a class, and I do not think the Chairman would have information that wasn't available to me, and others on the Student Faculty Committee, and would not be more qualified than myself or others to evaluate the effectiveness of an instructor.

Q Turning to the subject of the Chairman's role, vis-a-vis part time faculty, would you describe the role of the Chairman with regard to the hiring of a part time faculty member?

A Again, consultative.

I would consult with the Chairman, and say, I'm considering hiring so and so, and he would say, well, what is his background, where has he taught, how does he impress you. You interviewed him, how does he impress you.

He might, sometimes, suggest someone else, and we would discuss that.

The appointment of the part time member would, generally, be made, in Bible and Talmud, I'm speaking of these two areas, which are the two major areas, constitute perhaps 80% of the instruction in the school, these two major areas, most appointments are made by concensus.

[2929] Q The concensus being between—

A Between the—

Not most, I would correct that, and say, in the past, all appointments have been made by agreement between us.

MR. SHECTMAN: Who's us?

THE WITNESS: The Chairman and myself.

Q Have there been occasions in the hiring process, where you have asked the Chairman to review the background of an applicant for employment, in terms of his places of work?

A I—I have never asked a Chairman to reseach the background of a candidate, but I do research the background of the candidate before offering him any position, and I would discuss the information that I had with him.

But, I don't recall where I asked a Chairman, look into his background, inquire about his qualifications.

Q You discuss these matters with the Chairman?

A In a consultative manner.

Q With respect to an evaluation of the part time faculty member, is the Chairman's role, would you compare the Chairman's role with regard to part time faculty, to that of full time faculty?

A I think so, yes.

[2930] Q When you say, yes—

A Yes, I mean, it would be the same—

Q Generally, the same?

A It would be generally the same, which is not much.

Q Rabbi Besdin, could you estimate the amount of time that chairmen spend in the hiring evaluation proces with respect to part time faculty members?

A Well, as much time as it would take for me to consult with the Chairman.

It could be a half hour, an hour.

Q In each case, are you saying?

A in each case.

Q With respect to the other functions of the Chairman in the evaluation process, could you estimate the amount of time that would require?

A Again, it would be in consultation with me, and would vary.

I—As I did in this instance, where we have this, we still have, to some extent, this problem, I talked to Rabbi Oratz at great length.

Great length is a half-hour, three-quarters of an hour. That's consulting.

Q Rabbi Besdin, do you have any associate or assistant [2931] deans in your school?

A No.

Q Have you had any in recent years?

A No.

• • • •

[2934] CROSS EXAMINATION

Q How are the full time faculty salary rates set for the full time faculty at James Striar School?

A I haven't engaged anyone full time in a number of years.

* * * *

[2935] Q And do you have any knowledge of whether the college faculty, the Stern College and Yeshiva faculty, [2936] did negotiate and settle salary increases?

A I think there was.

I'm not sure, but every time the college faculty negotiates an increase, the James Striar faculty gets an increase, perhaps not of the same size and amount, but some increase is given.

Q You said the James Striar faculty ges some increase.

Is that an increase to the full time faculty or to the part time faculty?

A In recent years, it has been, such increases, as are negotiated or are—as are given to James Striar faculty, indirectly by granting it to the college faculties, such increases have'nt been limited to the full time.

Q Have or have not?

A Have been given to full time only.

They relate to full time only.

Q Did they receive an increase this year?

A Yes.

* * * *

[2942] Q When was the Student Faculty Committee formed?

A I'm not absolutely certain, but it's more than three years.

I think, four years ago.

Q Have Rabbi—

A Maybe earlier than that.

It was formed, I think, during the period when we had a little turmoil among the student body, and there was a demand for a vehicle by which a student body could assert its thinking.

Q Now, were Rabbis Fulda, Siff and Blech the original members of that Committee?

A Blech is a relatively new member.

[2943] I think the only member of the initial Committee, to the best of my recollection, who's still serving on this Committee, is Rabbi Fulda.

Q And the Committee on Promotions was formed at what time?

A Long time ago.

Four or five years ago. Six years ago.

Q Has it met in the last—Has—

Was it active in the last academic year?

A It was active to the extent of meeting with me, and discussing the possibility of promoting another member of the faculty, not one of the Committee, and I remember distinctly it was Rabbi Riskin who met with me, Rabbi Oratz and Rabbi Fulda, and I said, if you want to make a recommendation, promotions are made by the President, at my recommendation. I will make the promotion to the President on your recommendation, but I want it in writing, and they proceeded to meet and present it to me in writing.

They did not. So the matter is still pending in regard to the faculty member.

Q You indicated that this Committee has not been active yet this academic year?

A This academic year, since September, they have again spoken to me, once, I think, about promoting this [2944] particular member. I told them this time what I told them at the end of last year, academic year, that they should have a meeting and do it formally, because I present the recommendation to Dr. Belkin, the President formally.

Q So that Departmental Chairmen would not be—

Strike that, withdrawn.

Does the Committee on Promotions require membership from any departmental chairman?

A No.

They were appointed several years ago at the faculty meeting.

* * * *

[2946] Q You indicated with regard to the admissions of students, that they were handled primarily by Yeshiva College officials, and yourself?

A Yes.

Q Can you describe, more particularly, your role?

A I'll explain that.

A student who enters James Striar School, or any of the other religious schools or Yeshiva College, enter two schools, two autonomous schools. He cannot enter my school, James Striar School, unless I approve his admission to James Striar School.

If I approve his admission to James Striar School, he still does not enter, he still is not admitted until the admissions office, or the Committee of the Admissions [2947] office, or the Director of Admissions of the College, approves his admission to the College.

And, may I say, that it has happened, and does happen quite frequently, that I will want a student, who is very desirable on my terms, and the Dean of the College would be called in on an application and would say, I don't think he qualifies for the College.

So, we, when I say we, I mean the faculty and myself, determine the standard for admission to James Striar School, and the College admissions office, and the Dean, determine the standards, and faculty there, I think, too, determine the standards for admission to the College.

Because the student enters two schools, literally.

* * * *

[2950] Q Do you know who established the tenure policy, or had financial approval of the tenure policy, at Yeshiva University?

A I—

Q Pardon me?

A It is, to the best of my knowledge, it was done by the faculty of the Yeshiva College, perhaps, together with Stern College.

I know they had been working on it for a number of years, and it was finally approved, I think, by the Board of Directors or Trustees of Yeshiva University.

Q It was approved, was it not, for the entire University, excepting Einstein?

A Well, I never went into the—went into this issue, and the issue was never raised to me.

I cannot give a definite answer to your question.

I can only say, it was not operative in James Striar School. Has not bee, up to this point.

Q Does the faculty—

Do you or the faculty at the James Striar School, [2951] have charged to you, under any University document, the authority to establish your own tenure policy?

* * * *

THE WITNESS: Whether I've been directed to do so?

Q Yes.

A No.

Q Or anyone has granted you the authority to do so?

A You mean to follow the—to adopt or—

Q To adopt, reject, or set your own tenure policy.

A Specifically stated, or in writing, no.

* * * *

[2956] Q Do the departments of the James Striar School have formal meetings?

A No.

Q How were the departmental chairmen chosen?

A On the basis, they were chosen at a meeting, first of all, on the basis of seniority.

I made the recommendations and asked for approval.

Q Were they chosen with the concensus of the faculty?

A Oh, yes.

I think it was unanimous.

Q Was there a vote or was a concensus sufficient?

A You know, when one presides, one asks for a vote, and sometimes if there are any objections.

If there are no objections, it passed.

There was no discussion about it.

These are the two old time members of the department.

Q At the faculty meetings, who sets the agenda?

A I do.

Q Okay.

[2957] A But there's always a good and welfare item, and I ask for—and I always ask for good and welfare.

Under this item, a member may bring up any matter of interest concerned to him.

Q Who presides at the meetings?

A I do.

Q When was the last time you hired a full time faculty member?

A I don't—Well,—

Q Was Rabbi Blech the last one?

A Yes.

He had been teaching six hours, eight hours, ten hours, and he proved himself to be exceptional, an exceptional teacher, and three or four years ago, asked him whether he would take two additional courses to fill out the requisite number of hours, and he said, yes, he could do it, and he undertook the additional hours, and was given the status of full time.

Q So, in the last three years, with the exception of Rabbi Blech, you have hired no one, no full time faculty?

A No one.

* * * *

[2959] Q Then it is true, that it is not only the chairman who plays some consultative role, it is other members of your faculty, as well?

A Yes.

Except the chairman, I wouldn't hire anyone in their department, without consulting with.

Q And can any member or has any member of your [2960] faculty ever suggested a certain person for hiring?

A Certainly.

Q Has it been other than the chairman who has made such a suggestion?

A Sure.

I'm looking for suggestions right now.

Q Can you look for such suggestions from the entire faculty?

A Qualified instructors are very hard to get.

When you get them and train them, someone picks them up after you.

Q Do department chairmen at James Striar School receive any compensation for serving as chairman?

A No.

Q Now, you indicated that a department chairman might spend a half hour with your discussing potentially hiring a faculty member.

Is it possible he might spend a half hour with another faculty member—

MR. BODNER: Can you specify—

My question is, can you clarify if we're talking about departments with chairmen or those without chairmen?

Q I am talking about departments with chairmen.

A Your question is whether I would spend the amount [2961] of time with a non-chairman—

Q Or part time faculty member—

A I could and I might, but, ordinarily, I wouldn't spend that much time with a part time member discussing it, as I would with a full time member—with the chairman, rather.

Because from the chairman, I am, in a way, seeking a confirmation, or a concensus, and agreement on this appointment.

Q And you indicated that the chairman need not necessarily consult with other faculty in the department.

Similarly, may he likewise consult with other faculty members?

A Sure.

Q On occasions, do you know whether a chairman has consulted with faculty members?

A I don't know of a specific instance, but I imagine one time or another there was a chairman who consulted the members of his department.

* * * *

REDIRECT EXAMINATION

Q (By Mr. Bodner) Rabbi Besdin, who sets what—

What body sets the admissions criteria of your school, that you referred to?

[2962] A Basically, the general criteria is set by the faculty.

* * * *

[2966] RABBI BARUCH FAIVELSON

called as a witness, first being duly sworn, was examined, and testified as follows:

DIRECT EXAMINATION

BY MR. BODNER:

Q Rabbi Faivelson, will you tell us your correct position at Yeshiva University?

A I'm a director of the Teachers Institute for Women of Yeshiva University.

Q Would you describe for us what the Teachers Institute for Women is?

A The Teachers Institute for Women has a double purpose.

Number 1, as its name implies it produces teachers for the various day schools and afternoon schools in New York [2967] and other parts of the country.

Number 2, it has many students who have graduated from Yeshiva High School who now attend a college, whether it be NYU or City College or Hunter, and they come to our school for continuation of their Judaic studies.

Q What degrees are offered by the Teachers Institute for Women?

A We offer two degrees, Hebrew Teachers Diploma and a college degree, a B.S.

Q B.S., Bachelor of Science?

A In Education; right.

Q You offer any other Bachelor degrees other than Bachelor of Science Education?

A No.

Q Will you state the answer so that the—

A We offer a Bachelor of Science in Education, but what it really boils down to is a regular bachelor because many of our young ladies who get that B.S. have been accepted for a M.A. in English Literature at NYU or for a M.A. in Physiology. Because we have—16 credits of electives.

In other words, if someone wants to be a teacher—is someone goes for a M.A. in History, they can have as many as 12 credits under Social Sciences plus 16 credits in electives.

Q How many class room hours are required to retain a [2968] Bachelor of Science degree in education in T.I.W.?

A You have to get your Hebrew Teachers diploma, which involves 106 credits, plus 58 credits in regular college.

Q By regular college, does that include another college of Yeshiva University?

A No.

It means any acredited college, whether it be Hunter or Brooklyn or Barnard.

Q Can it also include Yeshiva College or Stern College for Women?

A Well, Yeshiva College is for men.

Q Stern College for Women?

A But the two schools have a completely different student body. Those girls are Stern College get their Hebraic studies and their general studies in Stern College. They get it in one building at the same school. We offer Hebraic studies only.

Q Rabbi Faivelson, when did you become director of the Teachers Institute for Women?

A From the very beginning of September '52.

Q When you say the very beginning, what do you mean by that?

Is that the time—

A That's when the school was instituted.

* * * *

[2973] Q Do you currently engage in any teaching at your school or any other school of Yeshiva University?

A Right. In our school I teach two courses.

Q What courses would those be?

A One is Medieval Hebrew Literature and one is Modern Hebrew Literature.

Q For how many years have you taught at the Teachers Institute for Women?

A From its very inception, '52.

Q Have any other faculty members at your school taught the same courses that were taught by you in years in which you were not teaching them?

A Right.

Q For example, the two courses that you are currently teaching, were they previously taught by other faculty members at T.I.W.?

A Right.

* * * *

[2975] Q Rabbi Faivelson, in preparation for this hearing did you at my request have prepared under your direction a listing of the faculty of the Teachers Institute for Women for the fall academic year 1974-'75?

A Right.

* * * *

[2976] THE HEARING OFFICER: On the record.

(The above referred document was marked Employer's Exhibit No. 123 for identification, as of this date.)

BY MR. BODNER:

Q Rabbi Faivelson, would you tell us what the first column represents, the column that starts with the word bible and goes on to education, Hebrew, so on?

A These are the major areas of study.

Q Do you consider them as departments as such? Do you have official departments within your school?

A No.

Q Are the faculty of—that I notice are grouped within major areas of study considered as members of specific subject area to departmental chairmen or senior professors within that subject area or area of study?

A No.

Q I notice the next column is designated full time faculty.

Is it correct that these are individuals who hold full time faculty status at the T.I.W.?

A Right.

Q Now, I notice that there is no designation of rank [2977] next to each individuals name but at the top of

this exhibit you have the sentence all faculty carry instructors rank.

Could you explain?

A We do not have any ranks in our school. Every one is considered an instructor.

Q Is that true of part time faculty as well as full time faculty?

A We have no distinction at all between full time and part time faculty.

Q So that every individual employed at your school, whether full time or part time, has the same title, namely that of instructor?

A Right.

* * * *

[2998] Q I show you this for identification, and ask it be marked for identification as Employer's Exhibit 125.

Is that the list you so prepared?

(Handing)

[2999] A Right.

(The above referred document was marked Employer's Exhibit No. 125 for identification, as of this date.)

BY MR. BODNER:

Q Rabbi Faivelson, are the committees listed here standing committees or adhoc committees or both, if you so distinguish them?

A I don't understand your question.

Q Have these committees continued in existence for a number of years at the school?

A Right.

Q How on this exhibit did you designate the individuals that are regarded as being part time faculty at T.I.W.?

A Well, you see asterisk mark.

Q I see.

Now, in your previous testimony you dealt with the Admissions Committee.

Rabbi Faivelson, will you tell us about the Academic Standing Committee, what is their function?

A The Committee in Academic Standing reviews at the end of every semester the grades of the—all the students, decides whether any student is to be dropped from the school, decides whether any student should be put on probation, and deals with any letter which may be written by any student [3000] to the Committee on Academic Standing.

Q And does its jurisdiction include students of both full time and part time faculty?

A Right.

Q Is there any distinction made between matters brought to it from students of both full time and part time faculty members?

A No.

Q The next committee is entitled Curriculum Committee.

Will you tell us what the function of that committee?

A The function of the Curriculum Committee is to decide which courses which have become obsolete should be dropped, which possibly new courses should be organized, and as to whether the contents of various courses should be changed.

Q And does it—are the subject matters of both courses taught by both full time and part time faculty?

A Right.

• • • •

[3002] Q Now, with regard to the next committee whose title is Education, would you tell us the functions of the Committee on Education?

A As you might recall all these three people are engaged in student teaching provision. And the contents of all courses in education is under their aegis. Accordingly, they are the prime arbitrators for any decisions which have to be made.

• • • •

[3003] Q The last committee on this exhibit for identification 125 is entitled Student Faculty Committee.

Are there additional student members of this committee?

A I have listed only the faculty.

Q Yes. I understand.

Are there though additional student members even though I asked you not to list them on this exhibit?

A Of course.

Q What is the jurisdiction or the work of this committee entitled Student Faculty?

A In line with developments in the field of education of late students are given more and more of a share in the administration of the school, and accordingly, we have this Student Faculty Committee. They were instrumental in, for instance, introducing a new course to the school this year, which we have never had before. It was at the demand of the students.

[3004] Q And this demand was enforced by the full committee?

A Right.

Q Were there any additional committees within the last two academic years other than those listed on this exhibit?

A No.

• • • •

Q Turning to the subject of part time faculty in terms of their governing functions, Rabbi Faivelson, do faculty members at T.I.W. meet as a body to discuss matters of interest to the faculty?

A Right.

Q In what form or format do they hold such meetings?

Are these meetings of the faculty as a whole?

A Right.

[3005] Q Are there written by-laws governing the conduct of such meetings?

A No.

Q What types of matters are within the ambit of these faculty meetings at T.I.W.?

A They have a wide range. For instance, a few years ago we were involved in the question of moving the school, namely, I suppose as you gentlemen know, when

it comes to higher education, especially for women, the question of attrition comes in, especially in our school where the girls go to two colleges, Brooklyn College and T.I., Barnard and T.I., Hunter and T.I., it's a very heavy double load and accordingly as soon as the young lady found some difficulty she drops out from our school.

Therefore, we have to be constantly on the alert and be engaged in a constant student recruitment drive. For instance, I go personally to visit every single Yeshiva school in New York and New Jersey to speak to the graduating class.

Now, we had a serious crisis in our school about three years ago, four years ago, and the question arose that maybe it would be better for our school to move to Brooklyn where there is the heavy concentration of the Jewish population.

Q I'm going to go into some details as to that, but could you tell us for now what other subject matters would be taken up at faculty meetings, in addition to this example?

[3006] A In connection with that crisis in the school lower number of students, the question of budgeting came in. We were asked to cut down on the number of courses and the teachers.

Accordingly the question arose who should be dropped. So even though I mentioned a certain—name of a teacher whose program should be cut, the faculty did not necessarily follow, and we had a faculty meeting, and the committee—a committee was appointed, and they went to Dr. Belkin, and rejected the dropping of this teacher.

Q We'll get into some detail as to that as well.

But in addition to these two examples, could you just briefly tell us the type of subject areas other than these two that are dealt with at faculty meetings?

Just to state the broad nature of the subject area.

A The beginning of every faculty meeting I give a report on the number of students in the school, sources of admission from which schools they come, how many students have left from the last juncture to this juncture, and accordingly all the faculties vitally involved in this

business of guarding the number of students in the school.

It goes to that extent, that all our facilities involved in student recruitment. For instance, we have had alumna parlor meetings about four years ago, we were in touch with every single alumna who graduated since 1952, and we [3007] organized parlor meetings in the various boroughs of the City of New York.

In every borough a different member of the faculty was present to tell our almuna about our plight and to engage their support.

Q Are there particular subjects of particular interest to the faculty that comes up at these meetings that were perhaps initiated by the faculty or are of particular concern to them as faculty members?

A No.

Q Do these meetings deal with questions of faculty status, faculty conditions?

A Naturally these are among the things which come up. But as I said before, it's not only matters of faculty perse; in T.I., the faculty is the school.

* * * *

[3008] Q Now, you mentioned before, Rabbi Faivelson, that there was an important matter at your school concerning the possible moving of the institute to Brooklyn, is that correct?

A Right.

Q And would you tell us what the issues involved within this discussion on where the institute should be housed?

A All right.

Originally our school was established in Brooklyn on Bedford Avenue and Snyder Avenue. We were an outgrowth, as I explained before, of Yeshiva University High School for [3009] Girls in Brooklyn who wanted to continue their education for higher studies.

But when Stern College opened up here in Manhattan, the administration felt that there would be great benefits for the two schools to be in one building, the question of a cafeteria, so accordingly we moved from Brook-

lyn to Manhattan and in September '54, two years after the school's existence.

But then as the years went on, and the demography of the City of New York as Manhattan became empty of Jews, I considered it highly visible for our school to move to Brooklyn. Brooklyn as you know is heavily centered now, into Borough Park, Flatbush, very many Jews, and our students come from these parts of the population.

I went to Dr. Belkin, and he said well, if you think so, but then the subject came up at the next faculty meeting, and the faculty rejected it completely, and in Manhattan we stayed.

* * * *

[3010] Q Rabbi Faivelson, were there minutes made of the meeting in which the possible move to Brooklyn was discussed?

A Right.

* * * *

Q I show you for identification this document and would ask you if this is a fair translation of the minutes of that [3011] meeting, and for that purpose I will also give you a copy of the original minutes in Hebrew and ask you to spend a moment and compare them to tell whether its a fair translation particularly with regard to the discussion of the move to Brooklyn?

A Right. It's the same.

* * * *

BY MR. BODNER:

Q Rabbi Faivelson, going through these minutes, who was the decision making body with regard to whether or not this school would move to Brooklyn?

A The faculty.

Q And did its decision run counter to your own recommendations and opinion?

A Right.

Q And did the decision of the faculty on this important matter become the ultimate decision of the school and of the University?

A Right.

Q That is reflected in these minutes which you have before you for identification as 126?

[3012] A Right.

MR. BODNER: I would move this into evidence as Employer's Exhibit 126.

MR. SHECTMAN: No objection.

THE HEARING OFFICER: Received.

* * * *

BY MR. BODNER:

Q Rabbi Faivelson, would you describe the role of your faculty with respect to decisions on curriculum, degree requirements, admission requirements and the like? Who is the decision making body on this matter?

A The faculty.

Q When you say the faculty, does that include on an equal basis the full time and part time faculty?

A Right.

Q Would you give us an example of a decision on an academic matter so that we might briefly trace its history taken up by the faculty in recent years?

A The question was whether we should continue courses Hebrew language program, speech and composition, and another course in Hebrew grammar.

Q Does this affect the work of both full time and part time faculty members?

[3013] A Right.

Q Did both full time and part time faculty members participate in this discussion?

A Right.

Q What were the results of the discussions and decisions by the faculty on this issue?

A The faculty seems to think that the young ladies of late are interested in content, and current Jewish problems, and that language was secondary, and the faculty decidead to eliminate these two courses.

Q Are there ever meetings of what you previously described as the subject or subject groupings as indicated on Employer's Exhibit 123, for example, do the faculty members who teach courses in the, in bible ever meet as a group to deal with instructions related to bible?

A In this area it's primarily the Education Committee, which is very active, having met as recently as last Thursday. Are interested in the subject of what they discussed?

Q Yes.

Would you briefly tell us that subject?

A We are of late branching out into the Homes for the Aged, but I'm not—you see, these Rabbis begin with the aging and they make a profit. We teachers start with the young. But the question was there are very many elderly in the Homes for the Aged, I visited two weeks ago two such nursing homes [3014] in Long Beach.

I have learned of late a lot about the aged, they go into three categories, those who are very well physically and mentally, these are senior citizens homes, next is what they call a health related facility, some are sick, some are well. The lowest category is a nursing home.

But in that senior citizens, where a former graduate of ours is a recreational director, I found she was conducting a class of spritely elderly young ladies in current Jewish problems, and I brought this back to the Education Committee.

The question was should the 150 hours of student teaching be done only for the young. At first I made a slip I called it early childhood and second childhood. But we decided to call it early education and later education. Or since we have so many of the elderly, if a person retires according to Beam's instruction at 63 and if you are happy or otherwise to live to 90, or 27 years in which to exist, and to do something, so the question was shall we recognize this as student teaching.

For instance, the committee met and decided that from now on any young lady who wants a certain area, they can do 75 hours of student teaching with the young and 75 hours of student teaching with the old. And we found some elderly Jews in Manhattan, here, on 14th Street and First [3015] Avenue, there is a Brookdale Institution for the Aged, that's where I was yesterday, and we have now arranging that the girls can do student teaching there.

Now, this whole matter of whether to recognize student teaching for the elderly are not—that is completely within the competent of the Education Committee.

Q Is their decision binding?

A Their decision is binding.

* * * *

[3031] Q So if an individual teaches a single two hour course in both the fall and spring semester of the academic year then for salary purposes is it correct that you would calculate on the basis of 16 sessions per hour times the factor of two to represent the fact that it's a two hour rather than one hour course, and then if this was true of both the fall and spring semesters times the factor of two to represent each of the semesters, so that the total would be 16 times two or 64 hours for salary calculation purposes?

A Right. Right.

Q And if he taught a full time load, which would be equivalent to six two hour courses or twelve hours, it would be 12 times—

A Seventeen point seventy-five per semester times two.

[3032] Q Let me take a step back. 12 representing the number of hours times 16 representing the number of sessions for each hour per semester times two to represent the fact that it's both for the spring and fall academic semester; is that correct?

A Right.

Q Now, you mention that the amount paid per hour is $17.75?

A Right.

Q Is that applicable to both full time and part time faculty?

A Right.

Q So that a part time faculty member who taught three two hour courses in both the fall and spring academic semester would receive exactly half of the full time faculty member who taught twice as many hours in both the fall and spring academic semester?

A Right.

* * * *

[3033] MR. BODNER: In our off the record discussion we discussed a stipulation to the effect that this formula, salary formula applies identically to both full time and part time faculty members, or to put it another way, that there is a pricise pro-rata relationship between the salary of full time and part time faculty members in this school, and a—according to the—that is according to the number of courses taught.

Are we now prepared to stipulate to that?

MR. SHECTMAN: I will stipulate that is uniform for the entire faculty employed at Teachers Institute for Women. I will not stipulate that there's any distinction between part time and full time at T.I.W., but I will stipulate in terms of salary.

MR. BODNER: In terms of salary?

[3034] MR. SHECTMAN: Yes.

THE HEARING OFFICER: So stipulated?

MR. BODNER: So agreed.

* * * *

[3038] Q Rabbi Faivelson, if you would use the perhaps over simplified definition that an upperout policy generally means that after a given number of years generally seven years, a faculty member is formally evaluated, and he is either given tenure or else his dismissal is required by the University, that is an individual cannot remain a member of the faculty unless he is given tenure after he reaches a certain number of years of service, is termed upperout.

[3039] Using that definition, is there a formal or informal upperout policy at your school that you're aware of?

A No.

Q All right.

Turning to the managerial and supervisory authority of the faculty, Rabbi Faivelson, you were describing before an instance in which an individual was scheduled to be terminated at T.I.W.

Can you at this time give us a bit more background about that situation, that is, approximately when did this occur, what was the reason for its possible occurrence and so forth?

A For the extention or for a typical one year probationary period and its termination?

Q No.

The instance I'm referring to is the one that you made brief reference to in your previous testimony, namely, an instance in which a faculty member was originally scheduled—one or more faculty members were originally scheduled to be terminated, and you indicated before that their termination did not come about, and as I said then I would go into it in a bit more detail at the appropriate moment.

Would you tell us first approximately what academic year this situation took place, if you recall?

A Yes.

[3040] This took place in '65, '65-'66. That was one case. Then we had another case in '70.

Q I see.

Let us take the more recent instance, the 1970 academic year.

Would you give us the background of how the threat ended or the possible termination came to occur, that is what were the circumstances that caused the situation to arise?

A We have a constant problem of, as I mentioned before, the attrition of students, especially since we have so many part time young ladies who don't come because they want to become Hebrew teachers. The field is rather not too remunerative, and accordingly as soon as they have the slightest difficult in carrying both programs or as soon as they develop a greater interest, namely they meet a young man, they drop out from our school.

So we have the constant problem of student recruitment and of student retention. We hit a crisis in 1970, where the number of young ladies was going down, and with the financial situation of the University as a whole, there were meetings of all the schools, the committees of all the schools, and it was decided that any class below a certain number of students, to be exact ten, should be eliminated, should be dropped.

Accordingly, we had a number of classes which were [3041] in that category, and there arose a question that

we had to eliminate a few courses, and in that case it meant a few teachers.

I, having the—possibly the more experience or having seen the school from the very beginning and thinkin of its future felt that if the boat is sinking, if the welfare of 19 teachers is involved, then we will dump one and keep the boat afloat.

If we have a teacher who is possibly not so efficient, he makes a hole in that boat and water comes in then we will all sink, so I recommended, and I was going to move that we eliminate one or two teachers. The faculty was made aware of it, since I don't move without the faculty.

Everything in T.I., whether it's student recruitment or visiting the bereaved, everything goes through the faculty. We took it up at a meeting and the faculty voted the other way, rather the whole boat should sink, but not someone who has been there for years even on a part time basis should be asked to leave.

I was out—I was out voted, and the committee—the faculty voted that the committee should go to Dr. Belkin, the person who is in charge of budgeting, and object and prevent any elimination of any teacher whatsoever from our school.

Q And was that the faculty's decision that the teacher should be retained adopted as the policy of Yeshiva University?

[3042] A Right.

As much as possible Dr. Belkin will not over ride the opinion of the whole school—of a whole faculty.

* * * *

THE WITNESS: May I make a statement, sir?

It so happens, gentlemen, I have been with Yeshiva [3043] University since 1929 as a student. When I graduated Yeshiva College and after I got my M.A. in Teachers College I was appointed to the public school system.

I taught in Lincoln High. And Dr. Belkin heard of my work, he pulled me out of there. When he opened T.I. he put me in there. I have been in touch with Dr. Belkin accordingly since 1945. I know the man personally well, and when many a time the question of a faculty opinion, he has expressed it, and I have him in action since 1945, he will not offend a whole faculty. This is in my experience.

* * * *

Q Rabbi Faivelson, was there, to your knowledge, minutes made of the faculty meeting to which you referred in 1970 in which the right or privilege of the institution to terminate the services of a particular faculty member?

A Yes.

Q I show you this for identification.

Do you recognize this to be minutes of such meeting?

(Handing)

A Right.

MR. BODNER: I ask this be marked for identification as Employer's Exhibit 127.

* * * *

[3044] BY MR. BODNER:

Q Rabbi Faivelson, I notice that in paragraph B of this document marked for identification as Employer's Exhibit 127, the faculty expresses an opinion with regard to the relationship between faculty and the administration previous to that time, that is, with respect to the right of the faculty to make determinations on the matters with which they're concerned.

Has this relationship changed, that is, in the sense does the faculty in this case to which you have referred, and in subsequent cases, act as the decision making body since 1970 on these matters?

A Right.

Q So that I assume that the basis for their concern which was expressed in this document as to what happened in previous academic years is no longer currently valid?

A Well, they have won their case.

They meaning the faculty?

A They have won their case, and those teachers were not dismissed.

* * * *

[3045] A No, I can't think off-hand.

Q Okay.

With regard to the example that you previously discussed with us when you indicated that the faculty reached a decision.

Was this a decision reached by vote or by consensus, if you know?

How was the decision arrived at?

A By a vote of all the members present.

* * * *

Q Rabbi Faivelson, would you describe for us your role as Dean, Director of T.I.W., in respect to the faculty?

[3046] A I consider myself as the executive arm of the faculty. I carry out their decisions.

* * * *

CROSS EXAMINATION

[3056] Q Who hires the faculty at the Teachers Institute for Women?

A The faculty.

* * * *

[3057] Q Rabbi, when you interview a prospective faculty member or a candidate for a position at the Teachers Institute for Women, do you conduct the interview with that person?

A Well, as I explained to you, we really have—I try to have one or two people present of the faculty.

Q Is that a matter of policy, that there's always somebody else present?

[3058] A You must have heard before, we have no by-laws and we have no definite status. As you have heard, this school is conducted like a sort of family. Because no other school makes it compulsive.

When one of our teachers who teaches for us, before a girl registers for the course, has to check out whether the teacher has room for her in his car to take her home at night. So accordingly, we don't—we have no definite by-laws, and I will not—I never engaged any teacher to which there was the slightest objection, even on one faculty member's part.

Q Do you provide the final notice of hiring or rejecting a faculty member—prospective?

A Final notice—I have to send a payroll memorandum to the office, to—we call him Mr. Ellenberger or the Office of Finances.

Q Who provides final notice to the person to be hired?

A I. I do the secretarial work.

Q And does this person receive a letter of appointment?

A No.

Q Does this person receive any written confirmation of his or her hiring from you or anyone else at the University?

A No.

* * * *

[3064] Q Are any members of your faculty entitled to take part in the University pension program?

A Again I tell yon I don't know.

Q Are any members of your faculty entitled to take part in the life insurance program offered by the University?

A All such matters—you see as I might have explained to you gentlemen, I cover such a wide variety of fronts in my work, as for instance, we are in touch with every single girl who graduated, and accordingly, if a job opens up like a school called me up, Prospect Park, they needed a teacher unexpectedly, I go over the list of graduates and have to—and come up with a name of a young lady.

I go down to the school to fight for a raise. So I—certain things I just tell them if you're interested, go to the office of Student Finances of the Bursar and find out.

* * * *

[3065] MR. BODNER: We will be happy to provide you with this data. As Rabbi Faivelson has indicated he is not familiar with these particular details, but we will seek to locate such details either in the form of perhaps a stipulation, perhaps written material or if absolutely necessary by another individual.

* * * *

Q Rabbi, in your prior testimony, in accordance with your handwritten notes to which you alluded you said that tenure meant job security.

Could you tell us more accurately what you mean by job security or more specifically?

A You mean there's—you mean those two words I wrote down?

Q The words which you stated in response to a question from counsel for the University.

[3066] A Thus far in the 23 year history of the school no teacher after his probationary has been finished has ever been fired so everyone knows that he has job security in our school.

Q Who established this probationary period of one year for your faculty?

A Faculty.

* * * *

[3069] THE HEARING OFFICER: All counsel is seeking is whether or not you have a formalized policy as to the termination or rights of a faculty member. Whether it has occurred or not is not the question.

THE WITNESS: This is what I'm trying to answer you. But what you term formal, in T.I. we have an unique relationship. I don't think you have any other school where you were, a teacher goes student recruiting with me. You don't have any other school—every teacher is present at any joyous occasion of the other person's family.

This is a none—sort of unwritten constitution, unwritten understanding that at T.I. no faculty member is fired.

* * * *

[3070] THE HEARING OFFICER: Can you state yes or no whether there is a formalized written policy concerning the rights—

THE WITNESS: We have nothing written. I made that statement in the beginning of the session that we have no written by-laws and any legal technicalities.

* * * *

[3074] Q Do members of what you designate as your full time faculty need express consent and approval to have employment outside the University?

A No.

* * * *

Supreme Court, U. S.
FILED
JUN 5 1979
MICHAEL RODAK, JR., CLERK

APPENDIX

Volume II, pp. 391-772

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioners,

—*v.*—

YESHIVA UNIVERSITY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI IN NO. 78-857
FILED NOVEMBER 27, 1978
PETITION FOR CERTIORARI IN NO. 78-997
FILED DECEMBER 19, 1978
CERTIORARI GRANTED FEBRUARY 21, 1979

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioners,

—*v.*—

YESHIVA UNIVERSITY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

INDEX

	Page
Chronological List of Relevant Docket Entries	1
Orders Allowing Certiorari	3
Excerpts from Transcript of Proceedings	5
Witnesses:	
Joshua A. Fishman	
Direct	6
Cross	83
Redirect	116
Sheldon Socol	
Direct	116
Cross	145
Redirect	152
Martin Miller	
Direct	155
David Mirsky	
Direct	180
Cross	223
Redirect	240

Page

Excerpts from Transcript of Proceedings—Continued

Dr. Isaac Bacon
- Direct 243
- Cross 285
- Redirect 391
- Recross 304, 392

Jacob Rabinowitz
- Direct 304
- Cross 341
- Redirect 351
- Recross 352

Rabbi Morris J. Besdin
- Direct 352
- Cross 366
- Redirect 371

Rabbi Baruch Faivelson
- Direct 372
- Cross 388

Rabbi Herbert C. Dobrinsky
- Direct 443

Dean Arthur Komar
- Direct 393, 453
- Cross 469
- Redirect 489
- Recross 494

Solomon H. Green
- Direct 495

Leo Landman
- Cross 540
- Redirect 553
- Recross 559
- Direct 559, 580
- Cross 591

Zevulum Charlop
- Direct 562
- Cross 575

Page

Excerpts from Transcript of Proceedings—Continued

Joseph Gittler
- Direct 595
- Cross 661
- Redirect 678
- Recross 679

Manfred Weidhorn
- Direct 679
- Cross 697
- Redirect 715

Ralph Behrends
- Direct 716
- Cross 743
- Redirect 751
- Recross 751

Max Lipsicas
- Cross 752
- Recross 767

Exhibit Volumes III and IV indexed separately.

[3078] ISAAC BACON,

being previously sworn, resumed the stand and testified further, as follows:

* * * *

REDIRECT EXAMINATION

* * * *

[3094] A On reconsideration I kust say that I am not very sure and I prefer to check on that. But by definition, my definition, the appointment of an assistant professor by our own definition, assistant professor means automatically full-time because if it were—if it were part-time they would not need a visiting assistant professor or visiting professor. And letters—letters that are not for full-time appointments are not written by the president.

MR. SCHECTMAN: Letters of full-time—

THE WITNESS: Letters for not full-time appointment are not written by the president.

Q Who are they written by, Dean Bacon, in your [3095] A For part-time people are written by me. And signed by me.

* * * *

Q Now, I'd like to turn now for a moment to the senior member in the speech department.

Who is that?

A Dr. Tauber, Abraham Tauber.

Q You recall, dean Bacon, when you were here last you were asked by Mr. Shectman whether any of the senior members had any reduction in their teaching loads attributable to their being senior members.

As I recall the record you said no, except that one was in a gray area. Which one is in the gray area?

A The gray area I referred to was Abraham Tauber.

Q All right.

Now would you tell us whether Abraham Tauber has a reduction in teach loads?

A The reason why I indicate—

Q Does he have a reduction in teaching load?

[3096] A I would have to say yes.

Q All right.
How much is that reduction?
A Two hours.
Q All right.
Now, is this the reduction in teaching load that you described as being within the gray area?
A Yes, I did.
Q Would you tell us why that is a gray area, Dean Bacon, because the record is not clear on this subject?
A Because sometimes he teaches more than the required 12 hours which means he would be getting additional money for it and at that time when I was asked it was not very clear in my mind how to define it.
But I think on thinking about it I would have to say that is a reduction of two hours because if it would be teaching 14 hours, let us say, I would pay him compensation for four hours, which means two above—four above the ten and two about the 12 which is considered a full-time appointment.
Q In any event, it is a fact, that he does receive—
A He does.
Q —an hour's reduction or compensation in lieu thereof on account of his functioning as the senior member of that department?
[3097] A That's correct.
Q That is a fact?
A That's correct.
Q That was not in the record previously, was it?
A Well, not that clearly, yes.
Q To the extent the record does not reflect that from your prior testimony it should be corrected to so reflect; is that right?
A Yes.

* * * *

RECROSS EXAMINATION

[3099] Q (By Mr. Shectman) How many hours is Professor Tauber—I am referring to the Tauber in the Speech Department—currently teaching?
A From memory I would have to say 14 hours.
Q Each—He is teaching 14 hours?
A Yes. Excuse me, 12 hours.
Q He is teaching 12 hours?
[3100] A 12 hours, plus the two hours compensation.

Q And how much compensation is he receiving?
A The same as a professor's rate, whatever the professor's rate is.
Q So he is receiving then the full-time faculty salary attributable to his seniority in his title; is that correct?
A That's correct.
Q On the salary scale which obtains at Yeshiva College?
A Right.
Q He is receiving no additional salary; is that correct?
A I said an additional compensation.
Q What is that additional compensation?
A The professional rate I think is 13 dollars and some change; I forgot what it is, per hour.
Q And what do you—And what duties is he performing for which he is—receiving additional compensation?
A As the senior member of the Speech Department.
Q I am asking now specifically what duties is he performing for which he is receiving that compensation?
A Hs is supervising the Speech Department.

* * * *

[3107] Whereupon,

ARTHUR B. KOMAR,

being first duly sworn by the Hearing Officer, testified as follows:

DIRECT EXAMINATION

Q (By Mr. Kramer) Dean Komar, by whom are you employed?
A Yeshiva University.
Q Yeshiva University?
A Yes.
Q What capacity?
A Dean of the Belfer Graduate School.
Q How long have you been dean of the Belfer Graduate School?
A Five or six years.
Q And prior to the becoming Dean of the Belfer Graduate School, did you work for Heshiva University?
A Yes, sir.

Q In what capacity?
A I was professor of physics.
[3108] Q You were a full professor of physics?
A Right.
Q How long were you a professor of physics?
A Well, I still am, so I have been with Yeshivz 12 years, I think.
Q And the other 7 years were as professor of physics; is that correct?
A Right.

* * * *

[3109] Q Are you presently teaching at Yeshiva University?
A Yes.
Q Would you tell us what you teach and hof oten you teach it? In terms of per term—
A I teach one course a semester. You want to know which course I am teaching?
Q Yes, sir.
A This semester I am teaching thermodynamics and statistical mechanics.
Q Last term?
A That would be previous—
Q In the spring of 1974?
A Spring of 1974 I taught quantum field therapy.
Q In the spring of 1975?
A I will be teaching statistical mechanics.
Q Are these courses taken by graduate students?
A Yes.
[3110] Q (By Mr. Kramer) Dean Komar, would you tell us the facts and circumstances surrounding your assuming the office of Dean of the Belfer School?

Would you put it in a time frame and then tell us how that came about in your own words, please?

A It was in 1968, if I remember correctly. The faculty had grievances against the previous dean, and assembled and petitioned the president of the university, President Belkin, for removal of the previous dean. And upon due consideration, it was then done immediately in discussions, I don't know what else went into it, the previous dean, Dean Geldbar was removed, and then I

was elected by the faculty as Acting Dean and a search committee was organized to find a full-time dean.

The search committee was—one existed—consisted [3111] of a number of members elected by the faculty and a few members appointed by the president.

I think the president appointed the vice president Kogel at that time, and he, I think he appointed one alumni member, whose name I don't recall at the moment.

In any case, that committee then functioned—prepared a list of names of people to approach to become dean and they went down, they made several offerings—I mean they—they did not make the offers. They recommended to the president to make offers to several people.

Those people came down but then decided not to take the position.

After approximately a year of this or fairly close to a year the head—the vice president Kogel who was the had of the search committee then recommended to the president that I be given the position as full-time dean.

The president approached me, asked me if I was interested. I went back to the faculty and asked them if they would approve, and they did, and I was appointed by the president.

This was, I suggest, about six years ago or so.

* * * *

[3113] Q Putting aside any limitations that I may have previously placed upon my question and any percentage characterization is that you have made, would you please just tell us what the grievances were?

A It is slowly coming back to me. The final culminating act which really provoked the faculty was that the previous dean attempted to rescind an appointment letter of a member of the faculty claiming that there was an error made in its issue.

I forget the exact details of the case. I just remember that a member of the faculty, I think it was Professor Snyder was—at—initially received an appointment letter not stating a termination date and his understanding was, I think it was a three-year appointment, and this dean then sent him a revised letter informing him that

it was intended as a brief appointment, either two years or [3114] something like that, and—which was contrary to the understanding of the Chemistry Department or of Professor Snyder when he accepted the position, and the faculty read the—read this correction as an intentional provication to antagonize members of the Chemistry Department and get them to resign from the school.

I think that was the final issue which precipitated the explosion.

Prior to that, there were lots of petty frictions which I can't even recall, but this, I think, was—

Q Was Professor Snyder what we call a new hire?

A No. He had been hired, I think—he had been present already a year or two.

I think it was quite close to the two-year period when he received this information that essentially he would be out of a job.

Q Dean Komar, would you give us some examples of the kind of thing you characterized as petty vrictions without using names?

A Petty frictions, with regard to what?

Q Prior, Dean.

A Oh, not approving payment of certain obligations such as professor travels on university business, I think that was one complaint. Or various allocations of funds. Interference in the appointments or promotions [3115] of faculty members.

Q Interference with whom?

A I think there was trouble within the Mathematics Department. I don't recall the exact details. This is six or seven years ago. But I know a number of mathematics professors resigned because they objected to the deans' interfering in their considering for appointments to the Mathematics Department and for promotions within the Mathematics Department.

I think it would—I think two or three professors of mathematics resigned or left at the end of that year and went elsewhere as a result of this interference and that was regarded as sources of friction, petty friction.

* * * *

[3117] Would it also be fair to state that that department is in the depth of transition?

A Yes.

Q Would you explain about that, please.

A Until this past year, Yeshiva University had several chemistry departments, depending upon how you count them.

Let me just enumerate.

There was the Chemistry Department at Belfer Graduate School, at Yeshiva College, Stern College, several different chemistry departments at the College of [3118] Medicine, and the State of New York, in its—has sent investigators, I have forgot what they are officially called, sent investigators around to evaluate the doctoral programs in the State of New York.

And they had come last year to evaluate the chemistry program. And they submitted a report which was accepted by the State of New York to the effect that the doctoral program at the Belfer School should be deregistered, and one of the reasons they gave is that the program in the Belfer School is too small, it is not at critical size, it has too few faculty members, it does not have enough teaching duties and as such it is not a viable program.

They strongly suggested that should the various chemistry departments of Yeshivan University be unified then it would have a critical size and be a viable program.

The University, therefore, is in the process now of doing this. It has officially announced now that there is a unified chemistry department for the entire university with the exception of the college of medicine.

And that Dr. Pomerantz was chairman of the Belver Department is now department chairman of the Chemistry Department of the entire university, Department fo College and Medicine.

[3119] how much since this has just been promulgated within this within this past semester, we are in a state of transition. The faculty members listed on this list are those who are in the Belfer School. There are now other faculty members who are in the other Chemistry

Departments who are in the process of being incorporated into the Unified Department.

* * * *

Q (By Mr. Kramer) Dean Komar, you told us that the state has deregistered the chemistry doctorate program; is that correct?

A That is correcg.

Q Is that now a final decision?

A Yes.

* * * *

[3120] Q Approximately how long did it take the State Education Department to reach this decision?

A The better part of a year, I would say.

Q During the course of that, Dr. Komar, of its deliberations, did the university send people to Albany, sir?

A Yes, sir, they did.

MR. SHECHTMAN: I'm going to object to this line of questioning.

* * * *

HEARING OFFICER: I assume you are going in a different area.

MR. KRAMER: I am going into supervisory status, managerial status of Professor Pomerantz who is the Chairman of the Chemistry Department, and we are not [3121] going to get into the substance of the report as we did with Dr. Fishman at some length I agree.

HEARING OFFICER: Okay. On that ground the objection is overruled.

* * * *

Q (By Mr. Kramer) During the course of the State Education Department's deliberations on this subject did the university send representatives to Albany to negotiate with the State Education Department's representatives and try to convince them not to deregister the program?

A Yes, they—I do.

Q Did you go?

A No.

Q And you are the dean of the school; is that right?

A Right.

Q Who went?

A Vice President Sokol, Vice President Fishman, and Professor Pomerantz.

Q Did you discuss with Professor Pomerantz what was going on in Albany?

A I believe I spoke to him before he left, and I spoke to him some time after he came back. But it was some time after because I was out of the country in the intervening period.

[3122] Q Did you give Professor Pomerantz any instructions as to what he should say or do in Albany?

A No, no. The discussion consisted of his informing me of what went on.

Q Was this a discussion in the regular course of your deanly functions?

A Whatever that may be.

Q In the regular course of business is the normal term?

A During the business day we had a conversation, let's put it that way.

Q Is is normal for you to have conversations with chairman of your departments?

A Yes.

Q About their functioning as chairmen?

A Yes.

Q Would you tell us what Dean Pomerantz reported to you about the chair—what chairman Pomerantz reported to you?

As best you recall, and in your own words, please.

A He told me that he went with the other two officials of the university, and they brought with them—I'm not sure whether it was a letter from President Belfin, but at least the assurances of President Belfin—Belfin that the [3123] university is prepared to make additional investments in the chemistry program, and the unification of the departments, in order to overcome the state's objections to the present status of the doctoral program.

And with these assurances they had hoped that the state would then reconsider their position. He then reported that—well, when he was therek of course, they took it under advisement.

Subsequently a letter was received by President Belkin from Commissioner Nyquist to the effect that he would not overrule the decision at this time, at least.

Q This is the same Professor Pomerantz who is Chairman of the university-wide Chemistry Department; is that right?

A Right.

The university proceeded to carry through the program in any event. I mean sir, of unifying the department.

* * * *

[3135] Q (By Mr. Kramer) Dean Komar, I show you a document marked as Employer's Exhibit 131 for identification and a document of eight pages entitled on the first page "Constitution, Belfer Graduate School of Science, Yeshiva University."

Are you familiar with this document?

A Yes.

Q What is it?

A It is the document—it is the constitution which tells the organization of the faculty of the Belfer School.

Q You also made reference in your previous testimony a minute ago to bylaws. Does this document also contain the bylaws of the Belfer governing—

A Yes.

Towards the back of the document; yes.

Q That would be on page 5 and pages thereafter?

A Yes.

Q Would you tell us, Dean Komar, how this constitution and bylaws came into being?

A Yes.

[3136] At the time, in 1968, when there was all this turmoil in the school due to the previous dean, the faculty assembled and set up a subcommittee to prepare such a document for the formal organization of the faculty.

The document was prepared and approved by the faculty and submitted to the president of the university. And the president sent, sometime thereafter, some type of letter, saying he accepts this document.

Q The document was promulgated at the initiative of the faculty?

A Yes. It was written by the faculty and promulgated at their initiative—I mean—yes. And ratified by the president of the university.

Q Now, the constitution, Dean Komar, at page 2, makes reference to a faculty council.

Q That would be in the first textual line on page 2?

A Right.

Q Is there in fact a faculty council at your school?

A Yes.

Q What is the faculty council?

A It is the entire faculty of the school. I mean as written in the constitution it is the full-time professors, the assistant—the associate dean, the dean, and the president [3137] of the university is technically a member also.

Q And—

A By the way, let me say, there is no associate dean at the moment. At the time it was written there was one.

* * * *

[3138] Q Now, in addition to the faculty council, do you also have a faculty committee at Belfer?

A Yes.

Q And that committee is described, is it not, in the constitution?

A It is.

Q It states there, Dean Iomar, that the faculty committee shall consist of the president of the university, the dean of the school, and the faculty committeemen selected with due regard to representation of various departments as specified in current bylaws.

A Right.

Q Does the president of the university in fact participate in the faculty committee meetings?

A He never has.

Q At no time?

A At no time has he ever.

Q Otherwise, the representation is as stated in the constitution on page 2?

A Yes.

Q Now, lets turn to page 5 of this document, particularly Roman Numeral I, which states, and I won't read it all by any means, that the faculty committee shall consist [3139] of, and then it describes under that the complement.

A Right.

Q Putting aside the president, who has not participated at any time, are the members of the committee made up as specified on that page?

A Yes.

Q They are designated as specified there?

A Right.

Q How frequently does the faculty committee meet?

A There are two statutory meetings each academic year and they may meet on other occasions.

So at a minimum of twice a year and could be three, four times a year, depending upon whether there is business for them.

Q What has been the actual practice?

A Two to three times a year.

Q Does the faculty council meet?

A Yes.

Q How frequently does that take place as a matter of actual practice?

A About the same. Maybe slightly less, in other words, two times a year.

Q Are there in addition to the faculty committee other faculty committees?

A Yes, there are.

Q Would you tell us about those?

A Well, there is a library committee, there is a [3140] computer committee, I imagine there are other ad hoc committees. I think credentials committee, welfare committee.

Q I did not hear that.

A I think there's a credentials committee, welfare committee, but I don't recall the meeting in recent years.

Since its function was to review the credentials of new appointments and we don't have new appointments—

MR. SHECTMAN: Did the witness refer to another commiteee after the credentials committee?

THE WITNESS: Yes. Welfare.

Q Dean Komar, turning to the faculty council itself, what is the function of that faculty council? How does it fit into the goverance of your school?

A Well, it is the principal governing body in the sense that the—that it constitutes all the faculty. Any subject of interest or relevance to the faculty can be faised there and discussed and voted upon.

Q What kind of subjects have been discussed there in the last two years?

A Everything from curriculum to welfare benefits, fringe benefit program has been discussed, occasional appointments, policy or—In other words, sizes of departments, formation of new departments or new [3141] programs or anything of that nature can be raised there. Sometimes the financial status of the school, the wage policy of the school, anything that is on the faculty members' mind can be traced and is in order for discussion.

Q What other type of items that are taken up in the faculty committee?

A Same. Exactly the same. It is just that the faculty committee is a more—sir—is a smaller body. It is more like an executive or presidium body because it is just unwieldly to have literally everyone present all the time when you want to discuss things.

The faculty committee also has additional functions as given in the bylaws such as if a department elects a department chairman, it has to be approved by the faculty committee.

So that is a function of the faculty committee which the faculty council does not have.

Q Let's turn to the library committee, for a moment. Would you tell us what that committee does?

A The library committee consists of several faculty members of the various departments. They determine the priority of ordering of books and journals. They make a recommendation to the librarian as to how much money they would need for books and journals, within the context of the budget given to the librarian then they would [3142] set the priorities of which should be ordered before which.

Since it has generally happened, you cannot order everything that is generally desired.

Q All right.

A They also make recommendations with regard to the hours of the library or the staffing of the library, when it should be opened, how many days, and so forth.

Q Are the recommendations of the library committee generally accepted?

A On priorities they are always accepted. On hours it is subject to staffing problems which become a financial consideration.

In other words, it is taken into consideration, but the amount of money involved becomes a relevant factor.

Q Now, Dean Komar, let us turn to the appointment of new faculty members.

A Right.

Q That is covered, is it not, on page 6 of Employee's Exhibit 113?

A Yes.

Q Now would you tell us, Dean Komar, how new faculty members are hired at your school? And I'd like you to start at the beginning and describe the process as it typically takes place.

A Okay.

[3143] Q We will assume that someone has left and there is a vacancy to be filled.

A Due to the financial exigency of the past few years there had been a slight change in the policy but now we have reverted back to the old system.

Now we have authority from the president that when someone leaves he may be replaced and so we don't have to go to the president to request permission to fill the slot.

In other words, when someone leaves then the department—when they know someone is going to leave the department involved starts soliciting names of people who might—they might want to hire to replace him.

They write to friends and call colleagues and so forth. When they compile preliminary list of names, they reassemble in a departmental meeting and they go over the list of names and the credentials.

As they zoom in one one or two people they generally would invite them down to give a talk, a colloquy. Once these preliminaries are over, they would typically vote in the departmental meeting as to who to approach first or who to approach.

And once that is decided upon, the department chairman would come to me with the department's recommendation that they want to make an offer to so and so, and I discuss with the chairman at what salary [3144] level to make the offer at, and it has—basically it is within a—a number of factors come to play there. What is he making elsewhere. What is the likely salary at which we could get him to come here and is it within the normal range of salaries within the university.

Q These are questions that you ask the chairman?

A Right.

I would ask him typically what do you think he is earning there. What do you think we would have to offer him to get him to come here.

And he would give me his recommendation of salary, and assuming that it is not something wild and out of the usual range of what we are paying professors currently employed with us, if it is within that range, then the letter is written at that—

Q You have no salary schedule, do you?

A No. We don't have a salary schedule. We have de facto range of salaries.

Q The highest to the lowest?

A Right. As long as the highs were in that range then no problem arises.

If it has to lie outside of the lowest range, of course there would be no problem either.

Outside of the highest range I suppose I would have to clear it with the president.

Q Does the—

[3145] A Although that has never happened.

Q Does the chairman normally recommend a figure to you?

A Yes.

Q Do you generally accept the figure recommended by the chairman?

A Yes.

Q Do you conduct salary negotiations or discussions in a typical situation with the faculty member being hired?

A I never have.

Q Is it the chairman who conducts those negotiations?

A Yes.

Q And brings the recommendation to you in the typical situation?

A In a typical situation the chairman would make the contact and speak to the person; yes.

Q The recommendation that he makes is generally accepted by you in the typical situation?

A Yes.

Q Now, Dean Komar, have you ever refused to make an appointment that was recommended to you by the chairman of the department?

A No.

MR. SHECTMAN: I object to the question. The prior testimony is the recommendations came from the [3146] departments, not from the department chairman.

MR. KRAMER: The question was not bearing on the earlier testimony. I will rephrase the question.

HEARING OFFICER: Thank you.

Q (By Mr. Kramer) I take it you receive a recommendation from the departmental members and for that matter from the chairman with respect to an appointment; is that right, sir?

A Right.

Q And that is a typical case?

A Yes.

Q Have you, during your sojourn as dean, refused to make the appointment recommended?

A No.

Q At no time?

A At no time.

Q Now, Dean Komar, one function of the appointment is salary. Another is length of appointment?

A Right.

Q How is that determined, Dean Komar?

A Again, the department discusses and decides what kind of appointment they want to make, whether they

want to make it for two year appointment or one year or three year or open-ended or—whatever the depart-partmental recommendation is, that is what usually happens.

The one qualification is if the departments [3147] wants to recommend tenure in the appointment that can only be granted by the president of the university.

They can recommend it and they would have to forward it to the president for his consideration.

Q Putting aside tenure recommendation for a moment, is it a fact then that in the typical situation it is the department, including its chairman, that would recommend the length of the appointment to you?

A Always; always.

Q Is it your testimony that that has been regularly accepted by you?

A Yes.

Q Without exception.

Q Have you ever negotiated in a typical situation, have you negotiated with new faculty people as to the length of their appointments?

A Never.

Q Now, let's turn to the tenure point that you raised.

I gather that is not typical for a faculty member to be hired with tenure; is that correct?

A Very rare.

Q When is the last time that happened in your school?

A If I look through the list—I can't think offhand anytime. It may have.

MR. SHECTMAN: Show him the exhibit.

[3148] THE WITNESS: Offhand I can't think of any case. No. There is nobody on this list, no. It has never happened.

Q (By Mr. Kramer) Dean Komar, do you have the atuhority to make appointments on your own without—

A You mean to initiate appointments?

Q To initiate appointments without consultation or recommendation without faculty committee or—

A Definitely not.

Q Now, Dean Iomar, you have told us that several things are recommended by the department, the person to be hired, the salary—strike that.

You told us that you receive recommendations concerning the person to be hired, the salary and the term of appointment; is that correct?

A Right.

Q Now, whose recommendation is it that you are receiving with respect to who should be hired?

A I'm receiving the department's recommendation to hire the particular faculty member.

Q By the "department" you mean a consensus of the members of that department. Is that correct?

A That's correct.

Q Now—Let's focus on salary for a moment. With respect to the salary to be paid, whose recommendation are you receiving? Is it the recommendation of the [3149] department consensus or is it the recommendation of its chairman?

A It is the chairman's recommendation.

Q It is the recommendation that you generally accept?

A Right.

Q Now, let us turn to the question of length of appointment. And I would like you to tell me, you get a recommendation on that, too, that's part of this package so to speak, is it not?

A Right.

Q Is that the recommendation of the department by consensus or is that the recommendation of the chairman individually?

A That fluctuates.

Q Would you tell us about that?

A I would say generally the department discusses how long the appointment should be for. On certain occasions it may happen that the department simply has not discussed it or did not consider it and the chairman may have his opinions and make the recommendation directly.

I can't think of specific cases. I would say more often than not the department does discuss that.

Q By "department" you mean by consensus?

A By consensus, yes, I would say that is the general [3150] rule.

Q Now, you belong to the Physics Department, don't you?

A Yes.

Q Do you participate in meetings of the Physica Department as a member of that department?

A Yes.

Q Do you participate as a member of the Physica Department in the hiring process?

A Yes.

Q Do you participate as a dean or as any other professor would?

A Just as any other member of the department.

Q Now, Dean Komar, do you have the authority to disapprove the recommendation of a new appointment?

A I don't really know. It's never—since it has never happened, and it does not—in the constitution it makes no statement about it.

What I could say is how I view my authority. That's about the best—

Q Why don't you tell us about that?

A I view my position as sort of first among equals. In other words, I could put in—excuse me—I can cause a lot of friction, namely, if the recommendation is—if a recommendation were made which I strongly disagreed with, I could get, say, the ear of the president of the university [3151] to put in my point of view. However, the department chairman or members of the department can and on occasions have gone directly to the president to get their point of view heard and then the president has to weigh one man against the department or one man against a senior member of the department. And then it is the president's decision. But whether I have the authority to say no, I don't think I do. And I know of occasions not specifically with regard to appointments but where individual faculty members simply went directly to the president and they have the authority to do that any time they want.

In other words, I don't have any constitutional authority to oppose an appointment. I can just recommend against it.

* * * *

[3152] Q (By Mr. Kramer) Would you tell us, Dean Komar, how—strike that.

Would you tell us how the chairmen are selected?

A It is stated in the bylaws. They are elected by the faculty with respect to faculty members for three year interval and have to be approved by the faculty committee.

Q I did not hear that last—

A And have to be approved by the faculty committee.

Q Is the actual appointment made by the president?

A According to the bylaws it says the chairmen of the departments are appointed by the president on recommendation by the department, recommendation by the faculty committee and approval of the dean.

In practice, I don't know whether any of them have ever received a letter of appointment from the president.

Q In practice—

A In practice they are elected by the faculty members, chairman, unless the faculty committee chooses to [3153] reject such a recommendation.

Q Now, approximately how many chairmen have been selected during your time as dean?

A Well, every three years, and four departments and so in the six-year period on the average twice, it would have come up twice in each department, offhand.

So eight plus or minus one or two.

Q Out of these approximately eight appointments have you approved all of them?

A No.

Q Would you tell us about that, please?

A One—At one time the Chemistry Department elected one person to be department chairman, and I was opposed to it. I took—So when the case came before the faculty committee for approval, which it has to in any event, I brought my position why I was against this to the faculty committee, and they sustained me on this, in other words, they refused to approve this particular

election, and it was sent back to the—in this case it was the Chemistry Department.

Q As dean of the school, Doctor Komar, do you view the choice of the department chairmen in each of the departments as a significant thing?

A Oh, yes.

Q Why is that so?

A They have to represent their members in other [3154] university bodies. In other words, both within the school and outside the school. And who they chose as their representative, it creates an image for the school and for the department.

Q Now, you opposed a particular choice in the Chemistry Department?

A Right.

Q What were the kind of reasons that motivated you to do that?

A Very simple. I thought tempermentally he would not have—he was a very excitable person, and would frequently become hysterical and have tanreuma and I thought that that would not be a proper image to project outside of the school or the department, for that matter.

Q That would not have been useful in the negotiation with the state, would it have?

A With the state or with the rest of the university, for that matter.

Q Would it be fair to state that the chairmen take part on—in the management of the school?

A That is so.

Q And in the management of the university in broader perspective?

A To a lesser extent.

Q Yes.

[3155] A Yes.

Q Let's turn to the curriculum. Dean Komar, who decides what the schools curriculum is going to be?

A The faculty.

Q I assume the curriculum is what you are offering to your graduate students apart from research; is that right?

A Right.

Q That is the merchandise the school has to display?
A Exactly.
Q And would you tell us how curriculum is set in your school?
A It is set individually within each department. The faculty of the department decides what courses to offer and what curriculum, whether to revise the curriculum and who should teach each course and which semesters it should be given or given—whether to be given at all, whether it should be revised.

All of that is discussed within the departmental meetings, and settled there upon consensus.
Q Do you get yourself involved out—
A Only in the Physics Department, only my own department. I never show up at a faculty meeting [3156] except at—at each departmental meeting. I have never attended any meeting, except that of the Physics Department, of which I am a faculty member.
Q Do you tell the Chemistry Department people what to offer or what not to offer?
A Never.
Q Do you tell the mathematics people what to offer or not to offer?
A No.
Q That is a faculty decision, I take it?
A Right; their prerogative.
Q Does both the quality of the courses and the number and type of course have an affect on people coming to your school?
[3157] A I would hope so.
Q On the number of people coming to your school?
A I would hope so.

* * * *

Q (By Mr. Kramer) And on the quality of people coming to your school?
A Yes.
Q Now, is the level of tuition paid by students taking courses in math and science education departments relevant and important to you?
A The actual tuition they pay?

* * * *

A Yes.
Q Does the tuition level have an effect on the number of students who would participate in such courses?
A Very definitely.
Q Now—
A There's strong competition in the city for such—
Q Why is there such strong competition, Dean Komar?
A This is basically an in-service training type of program for high school teachers. As they get a certain number [3158] of credits, their salaries go up; and, if they get a master's, they get a corresponding increment in salaries.

As such, they have an economic interest in obtaining these credits. Therefore, there are quite a few schools in the New York City area who run such programs. We are one of them. NYU runs one. I think Fordham runs one. City University, and so forth.

So, it's quite a competitive enterprise.
Q Now, turning to last academic year, that time frame, Dr. Komar, was the subject of a tuition increase for students in that department dealt with in your school?
A Yes.
Q Would you give us all the facts and surrounding circumstances, please?
A In general, due to the inflation, it was proposed that the tuition be increased in the various schools throughout the university.
Q Who made that proposal, Dean Komar?
A I don't really know. It was again—much of this is done by consensus.

There is someone directly in charge of questions of tuition. I don't recall his name.

MR. SHECTMAN: Is the witness now referring to persons at the Belfer School or—

THE WITNESS: No. Just, again, in the university [3159] administration there are people concerned with tuition and students and so forth. And there was a recommendation made that the tuition at the various colleges of the university be increased by a certain amount next year and then by a certain amount the year after, and so forth.

Q Now, was that recommendation put in effect at your school for the math—

A For this department, no.

The department chairman objected, pointing out the competitive nature of the program, and the chairman felt that, should the tuition rise in this program, they would lose a substantial fraction of their students. And therefore, for this particular department, there was no increase in tuition.

Q Did the chairman make a recommendation to you?

A Yes.

Q What did he say to you?

A Well, it's a woman.

She said—

Q She.

A Yes.

She simply pointed out what I just said: that, if we raised the tuition, it would—it may undermine the student—the number of students that would come.

And so I forwarded this statement of hers—well, [3160] among others, I forwarded to vice president, and so forth, who is the vice president of business affairs. I don't recall whether I did it directly to him or whether I did it first to the other person whose name I can't recall.

Q Was this recommendation of the chairman accepted and the tuition rise cancelled?

A Yes.

Q Let's turn to salary treatment, Dean Komar, for the 1973-74 school year and the 1972-73 school year.

What role, if any, did the department chairman play in determining the salary increases to be received by the various members of their departments?

A At the time when I have to start considering the budget for the following year, the department chairmen come to me with their recommendations for salaries. And they come to me on a piece of paper; it could be scratch paper or—just listing all the faculty members' names and their recommendations for what the salary should be for the following year.

Q Now, you say it comes to you on a piece of scratch paper.

A Well, they come to see me, and they may write it on the back of an envelope or piece of paper, whatever is available.

Q And they make a recommendation as to the salary in- [3161] crease for each of the members of their department?

A For each of the members of their department, right.

Q Is that their recommendation?

A Yes.

Q Is there any question in your mind that this is not the product of a vote or consensus?

A No. This is their own recommendation.

Q Now, we're focusing on '72-73 and '73-74.

Were those recommendations generally accepted?

A No.

Q All right. Would you explain?

A The actual dollar amount couldn't be accepted because there is—there was a budgetary freeze; the overall budget of the school had to be kept within bounds, and all increases in salaries had to be absorbed by making cuts in other areas of the school. So the actual dollar amount could not be fully accepted. However—

Q Which year was this?

A Both years.

Q Go ahead.

A But the ordering and the orders of magnitude were accepted.

In other words, the priority sequence of the faculty members and the rough order of magnitude of the recommendations were accepted.

[3162] What I mean by that, they may have been shaved $100 or $300 off or even $500 from what was recommended, but the sequence of who gets the most and who gets the next most and so forth, that sequence was left intact.

Q Now, did the determination of the priority of who would get the most, the largest increase, and who would get the next largest increase, and so on down the line,

was that a function of independent judgment on the part of the chairmen?

A Yes.

Q That required him to appraise the function of the members of his department?

A Yes.

Q Now, in your discussions with the chairmen, did you discuss his view of how the members of his department were functioning?

A Yes.

Q Just so that I'm clear, Dean Komar, in each instance the chairmen provided a list of names of the members of their department; is that correct—of his department; is that correct?

A Right.

Q All right.

A Each instance is a very precise statement.

Perhaps there were—on occasion they may have [3163] been done verbally; in other words, it may not have always been a written list.

But they would come—they would discuss each name individually, and generally write it down on paper. On occasion they may say remember this, remember that, remember the other thing; in other words, without writing it down. They expect me to remember it while they're talking.

Q And he would recommend an increase, or she, for each member of the department?

A Yes. Yes.

Q An increase of a particular amount?

A Right.

Q And these increases would have a relationship one to the other within the department?

A Yes.

Q And it is a fact, as you have testified, that, while on—you may not have been able to grant all of the money proposed because of budgetary considerations, you may have granted less, but you nevertheless kept the priority order and relationship; is that correct?

A Yes.

• • • •

[3165] Q (By Mr. Kramer) Now, Dean Komar, after you received the recommendations that you've just described—strike that.

In the last instance, Dean Komar, are the increases given in a particular year subject to approval by the vice president for financial affairs?

A In what we were just speaking about, you mean?

Q Yes.

A Yes, subject to the approval of the vice president for business affairs.

Q Once the increases have been adjusted in the fashion that you've described, is that approval routine or not routine, once there has been a reduction as you have described it?

A Yes. As I recall, I was never questioned—I mean, it was routinely done.

Q To your knowledge, any time you were dean, has the vice president of financial affairs—for that matter, anyone at central administration—interfered with the priority of the department chairmen's rating, the ranking, so to speak, of this annual review that you've talked about?

[3166] A Individual faculty members at times have gone to the president directly over my head and his head and have gotten adjustments—

Q Apart from that?

A Apart from that, no.

Q Is that a frequent occurrence?

A No, it's not a frequent occurrence, but it does happen.

Q On occasion?

A Yes.

Q Now, you told us there was a salary freeze at the university. I think you've made some reference to that.

A Yes, about three years ago, was it, or about four years ago.

Q You told us about 1972-73 and '73-'74.

Prior to 1972-73 were the salaries of the Belfer faculty frozen?

A Yes.

Q Do you recall for how many years that was in effect?

A Two.

Q Now, in 1974-75 has Belfer received a salary increase?

A Yes.

Q And what type of increase was that?

A It was uniform across the board. There was no input at all from the faculty members, chairmen, or myself. It [3167] was just a universal—

Q That was the first time, was it not, that such an increase was implemented?

A Right.

Q Was there a reason for this across-the-board increase treatment, as opposed to the—I use the word "merit" treatment previously afforded?

A Yes.

Q Would you tell us?

A Yes. It was due to these hearings.

On advice of counsel, it was deemed that, if anyone were discriminated against, either by getting more than someone else or less than someone else, the union representative might claim that it was an unfair labor practice.

Q That's your understanding—

A That was my understanding of the reason why this was done.

Q You did not, however, discuss that with me?

A No.

Q So that, when you're referring to counsel—

A This is the understanding that I was given. It was not given by a lawyer.

Q All right.

Now, let's turn to the nonrenewal of faculty appointments.

[3168] Who makes the decision not to renew a faculty appointment? How is that decided?

A The department. The department.

Q How do they—How does the department in a typical case go about deciding that?

A Well, obviously that would be a member who doesn't already have tenure, so he—when his term of appointment is coming up for reconsideration, the department assembles, without his presence, and he is discussed as to whether one wants to renew the appointment or have him leave and have him be replaced by someone else, or whether we would want him as a tenured member or not. I mean, that's all discussed within the department.

And then the department decides what recommendation to make; basically on a consensus basis.

To my knowledge, there has never been a vote on this subject.

Q Dr. Komar, do you have the right, your view of your rights, to require the retention of a faculty member whom the department choses not to renew?

A Definitely not.

Q Now, let's turn to tenure.

What is the procedure utilized in your school for the determination whether a faculty member is to be recommended for tenure?

[3169] A It's quite similar to just reappointment. The department again meets to decide whether they want that particular faculty member to be granted tenure.

Should they so agree, they pass that recommendation on to me, and I then forward that recommendation either directly to the president or to the vice president Fishman, who then forwards it to the president. In the end, tenure can only be granted by the president of the university, though.

Q Dr. Komar, have you ever disapproved a faculty recommendation for tenure?

A No.

Q Have you ever disapproved a recommendation against tenure?

A That—no.

Q In your view of your authority, Dean Komar, do you have the authority to disapprove such a recommendation?

A No.

* * * *

[3170] Q Now, how are standards for admissions set at your [3171] school?

A By the department—respective departments. They review applicants, their credentials, their letters of recommendation, their transcripts, and then the students are discussed at a departmental meeting.

MR. SHECTMAN: At a what meeting?

THE WITNESS: At a departmental meeting.

Q Now, do the departments determine—strike that. What role, if any, do the departments have in determining whether financial aid, apart from tuition remission, will be granted to entering students or students who have matriculated and are proceeding to a degree?

A There are two kinds of funds above tuition remission, above subsistence remission to the student, two sources of funds.

One is a grant given to individual faculty member or, in some rare cases, to a department or, in fact, to the school when there were trainingship grounds some years ago available from the government.

Each department, or the chairmen certainly of each department, and the department as a whole knew how much money was available from these various sources. I repeat, the government, perhaps private foundations, and the university.

Within the context of the money available, the de-[3172] partment would meet and decide which students should be granted money, and how the part should be divided up among them.

Q What other sources are available?

A Well, each department had a different—had its different policies, which are their own.

In the physics department, for example, the general consensus is, when there is money available from research grants, it is pooled and the students are distributed in that fashion.

With a certain few exceptions. Some professors take issue with that and insist that the money available on their grant can only be used for students of their choice who are working on their grounds.

In the chemistry department, that exceptional case turns out to be the rule. The chemists refuse to pool their money and insist that only students which meet with their approval and are working on their grants can be paid out of their budgets.

Q These are predoctoral students?

A Yes.

Q When they work on a grant, they're called research assistants; is that correct?

A That's correct.

Q They are not called research associates, however? [3173] A No.

Q Does the availability of research assistantships have an effect on the number of students and the quality of students you are able to attract?

A Very much so.

Q Now, Dean Komar, would you tell us what process you employ in determining or having determined, as the case may be, the budget for your school?

A Well, basically I look at the previous year's budget, and there are certain increments which I have no control over: namely, increments that—for secretarial staff and technicians which are predetermined through other agreements outside of the school with the university, and I have to simply absorb those increments.

Then there are the faculty increments, which I've already discussed how that takes places.

And, finally, there are supplies and—where I just try to get some input from the various people in the school, individual faculty members, department chairmen, lab management, in what ballpark of figures they would need for supplies, and whether there are any other expenses one should—one will have to anticipate, such as purchase of new equipment or servicing of old equipment, and put in an estimate of what that might come to in the next year.

And all of this—when all of these recommendations [3174] are assembled, they're all put into a preliminary budget and totalled.

The total typically exceeds the previous year's budget, and I am under instructions not to exceed the pre-

vious year's budget. And so then I have to find out what can be cut out to come down to the previous year's budget.

And there again it's subject to discussions and negotiations, up and back, whether a secretary can be dropped or moved over to a grant, or whether a technician is really necessary who is being paid for from university funds, or whether he is working for a grant and can be charged for grant funds.

It goes up and down, until finally I come back with somewhat reduced budget, which then exceeds the previous year's budget, and then I throw up my hands and present it to the vice president.

Q What role do the—What role, if any, do the department chairmen play in this budgeting process?

A Very essential one. They're the ones who make the estimates of what they will need in the nature of supplies and services, equipment, and what have you. They're the ones that present me the estimates of what will be required. I have no way of knowing what they will need.

Q Do they get that on some kind of vote or consensus—.

A It's a consensus. They talk to their faculty members. [3175] They know what's doing in their department. They know what was spent last year in those categories.

And, as a result, they reach some sort of consensual estimate.

Q Dean Komar, who decides whether students are performing adequately in your school?

A The department. The faculty members in the department.

Q Who sets the standards for adequacy?

A The faculty members of the department.

Q And do the faculty members have it within their province to flunk students out of your school?

A Yes.

Q In the math and science education department, does the chairman teach one less course than the regular load?

A Yes.

MR. SHECTMAN: That's one department?

MR. KRAMER: Math and science education department, which is one department.

Q Is that to offset the administrative functions of the chairman?

A Yes.

Q Now, the other chairman, chemistry, math and physics, teach how many courses on an average?

A An average they teach the same as the other members [3176] of the department.

Q Which would be again?

A Two courses a semester.

Q Can it sometimes be even less than that?

A It can be less. However, other faculty members sometimes also teach less.

Q I understand that.

And they receive no other stipend or further reduction in course load as a result of their being chairmen?

A That's right.

* * * *

[3179] Q Do the department chairmen play a larger role in the selection of part-time faculty members than they do in the selection of full-time faculty members?

A If by a larger role do you mean am I less involved, the answer would be yes. But, I mean, they would do it again in censensus with their department. I mean, they would not do it without taking—getting the agreement of their department.

Q You are even less involved in the part-time hiring than you are in the full-time hiring?

A Right, if it's possible to be less involved.

Q Dean Komar, in addition to your administrative chores as dean, do you get involved in research?

A Yes.

Q You have an academic function in the research area?

A Yes.

Q And you also teach?

A Right.

* * * *

[3183] Q Now, you have an assistant dean, do you not?
A Yes.
Q What's his name?
A Charles Patt.
Q Is he a member of the faculty?
A Yes.
Q What is his rank?
A He's an assistant professor in the mathematics department.
Q How many courses a term or a year, as the case may be, does he teach?
A One course each semester generally.
I'm trying to recall whether he's not teaching two courses this semester. I vaguely remember, but I'm not [3184] positive. He generally teaches one course per semester
Q And does he presently have a research grant?
A No.
Q Has he had a research grant in the last three years, to the best of your recollection?
A He's never had a research grant.
Q Never at any time to your recollection?
A He does no research.
Q So that I am correct—Am I correct that Professor Patt teaches only one course each term?
A Right.
Q Not four courses each term?
A No.
Q Now, if you can recall—And he does no research?
A Right.
Q Can you recall Professor Patt's salary?
A It's in the low twenties, over $20,000 a year.
Q Would you doublecheck that figure for me for the next hearing, please? Make a note of that.
I assume we're going to finish today and we'll be back here.
HEARING OFFICER: We might.
A I think it's 23,000.
Q Would you just check it just so the record has a firmer figure in it?
[3185] A Okay.

Q Would you tell us as best you can, Dean Komar—strike that.
Does Professor Patt have tenure?
A Yes.
Q He's eligible for Blue Cross-Blue Shield major medical?
A Yes.
Q And life insurance?
A Right.
Q He teaches only one course each term?
A Right.
Q And does no research?
A Right.
Q What else does he do, Dr. Komar?
Would you go sowly and try to get all the various duties?
A He's assistant dean, and as such he has responsibility for innumerable things. He is in charge of grant accounting, preparation of grant proposals, charging and billing to grants, expenditures.
He's in charge of keeping track that the correct reports are made concerning hours taught, faculty workloads. He's in charge of seeing that curriculum requirements on the part of students are fulfilled.
[3186] He provides liaison with the registrar's office and with the student admissions office concerning new applicants to—applicants for degrees, that they have fulfilled the appropriate credit hours and requirements, language requirements.
Let me see. He's in charge of measuring the various schedules of classes and assignments of rooms and hours to see that there are no conflicts in assignments of courses and hours and credits, what have you.
He would have to—he frequently has to negotiate with the individual faculty members to see to it that the university's interests are protected in writing budgets for grant proposals, that the appropriate categories are placed in the budgets, such as appropriate amount for secretarial services, for overhead, for supplies.
He sees to it that they don't overspend in these categories or that, if they want to make a transfer from

one category to another, it's permissible if the faculty member claims it's permissible and there's a disagreement. He frequently has to call Washington and check the agency and obtain written approval to find out whether it is permissible or not.

I mean, all questions of this sort are done by Patt.

* * * *

[3187] Q (By Mr. Kramer) Now, you've told us, Dean Komar, that Professor Patt—Mr. Patt is involved in grant accounting?

A Right.

Q Tell us what that entails.

I'm not presupposing here a great detailed knowledge of the procedures, but I'd like you to tell the reader of the record something more than what you've just said to give him a feel, and us a feel, of what's involved in that.

A Principal investigator has a grant with a budget. The budget is—has to be approved by the agency, the federal agency giving the grant.

Once the budget is approved by the federal agency, then the principal investigator proceeds to make charges against that budget for supplies, for bringing in colleagues, assistants, associates, consultants. They take trips, they [3188] charge it to their account, and so forth.

Then there are categories in the budget which they use but which the university bills them; for example, secretarial services or overhead or supplies—computer time or use of the xerox machine, all this is billed against categories in the grant.

Now, Dr. Patt has to keep track of these charges to see that none of the categories are overspent.

Q In other words, the money is the university's money; is that correct?

A The money is given to the university by the federal government.

Q And it is represented by a grant; is that right?

A Right.

Q It's Patt's function, in the first instance, to make sure that the faculty members in your school do not overspend their grants?

A Right.

Q Do not—for personnel?

A For personnel.

Q Or for overhead?

A Right.

Q Or for equipment?

A Right.

Q That's his function, one of his functions?

[3189] A Yes.

Let me give an example how they could overspend on overhead. It sounds rather odd.

Q I prefer at this point to go on.

A It's a source of conflict between Patt and faculty members.

Q You know, witnesses of this intellectual quality, counsel will bend. Go ahead, Dean Komar. I don't have very many experts in general relativity testifying.

A Personally I'm not lecturing on general relativity at the time.

A frequent source of conflict between Patt and the principal investigator is when the principal investigator attempts to transfer funds from a supply item to a salary item.

The reason why is that overhead is computed only on salaries, not on supplies. So, if he takes $1,000 out of supplies and puts it into salaries, he would like to spend $1,000 on salaries of hiring personnel.

But he cannot, because as soon as it's put into the salary column, 50 percent of that has to go as overhead to the university.

So, if he wishes to, for example, spend $1,000 on salary, he would have to transfer $1,500 out of supplies. And that's a frequent source of friction.

[3190] Q And under these circumstances, you say it's a source of friction.

Does Patt—Patt has, I would assume, authority in the first instance in this situation; is that correct?

A Yes. To simply refuse—I mean to simply insist that, if he wants to spend $1,000 on salaries, he has to transfer $1,500 from supplies, yes.

Q Now, you've told us that Patt has a role in grant preparation and the charging and billing to accounts.

A Right.

Q Without duplicating your prior testimony, would you tell us what this is all about?

A When a grant proposal is prepared, the principal investigator prepares the scientific part of the proposal in its entirety. The budget he will give to Dr. Patt, his estimates of what it is he wants to include in the budget and how much he proposes to request in funds.

Patt then has to prepare it in the proper format to see that the other cost factors of the university are included within the budget, such as the overhead, such as secretarial services, such as fringe benefits. All of that the principal investigator generally forgets about when preparing a budget.

Q Is there—I know the reader—the reader of the record of course can't get the inflection in the voice. [3191] When you say he generally forgets about it, and smile, which you've just done, what do you mean by that? I gather there's a secondary meaning within what you're saying.

A Yes.

Very frequently he chooses to forget about it because he feels that the granting agency has a limited amount of funds to give him, and he wants the funds spent exclusively on the research part of the proposal and is reluctant to have a large portion of that fund spent on the mandated items.

Q Are faculty members generally required to put in the grant application to include the university's share of expenses?

A They're requested to.

Q And do they do so in most instances?

A Fifty-fifty. I mean, they—it depends on the—it depends on the faculty member. Sometimes they do; sometimes they refuse.

Q And I assume it is Patt's role to make sure that the grants go in properly?

A Yes.

Q Regardless of whether the faculty member has put it in or not?

A Well, he—it's his role to do that, yes, to insist [3192] on that.

Q Is that a source of friction between Patt and the faculty members as well?

A Yes, very frequently.

Q Now, you've told us that Dr. Patt corrects reports—I'm not using your exact words but, as close as my notes will show, corrects reports about the hours taught by the faculty and faculty workloads.

A Yes.

Q Would you tell us what is involved in that, Dr. Komar?

A Well, there are two parts involved. One is that the university requires information as to who is teaching which courses for which hours, what semester; that the university requires.

Patt has the duties to assemble this and provide it to the university.

However, there is a new feature—new, that is—required by the government for people working on grants. The government, basically the NIH, who does the principal monitoring for Yeshiva University, their aduitors require that the—that each principal investigator certify the hours that he put in on his grant each month, and the hours that are put in by any person employed on his grant each day. And he—and the principal investigator has to certify this for the federal agencies. [3193] And Patt has to check on—to assemble this, collate it, to check that it's really being done properly, and forward it on to the business office.

Q Do you check that it's really being done?

A No.

Q Does the president of the institution check that it's really being done?

A No.

Q Does the vice president of financial affairs check that it's really being done?

A No.

Q It's Patt that checks that it's really being done; that's a fact, is it not?

A He is the—he is the first line of—in the administrative tier that checks what is being done.

Q It's up to him—
A The extent to which he does it I'm not going to testify.
Q He has the responsibility to see—
A He has the responsibility.
Q And the authority to do it?
A To check? Oh, yes.
Q Now, is it a fact that Professor Patt gives faculty their room assignments?
A Yes.
[3194] Q And that he also gives them their course assignments as to when the course will be taught?
A That less so. That—it's generally the faculty member expresses a preference, and he then will mediate preferences if there are conflicts.
Q Now, I want to stick with the room assignment for a moment. That he does?
A Yes, that he does.
Q Now, with respect to times he seeks to mediate conflicts between faculty members?
A Right. If there are conflicts in schedules, yes.
Q And, Dean Komar, you've told us that you teach?
A Yes.
Q And you do research?
A Yes.
Q And you're also an active dean of the school?
A Yes.
Q Were Mr. Patt not available—or, Professor Patt not available to do the administrative chores that you've just outlined, would they fall to you to do?
A They would be my responsibility to see to it that it's done, yes.
Q When—how often are you away from the school, Dean Komar?
A You mean all totalled in a year, or per week? I'm [3195] not quite sure how you want it.
Q Give it to me both ways.
A Well, most weeks I am generally there four or five days, but I can be away for blocks of time like several weeks or in fact a month or two at a time.

Q Several weeks or a month or two while the school is functioning?
A Well, the month or two would be more often in the summer. But the school functions in the summer. The teaching doesn't go on, but the school is open, and there's research going on and laboratories. There's just no classes given in the summer. The libraries are open in the summer.
Q When you're away from the school, would it be fair to say that Mr. Patt is in charge?
A Yes, definitely, yes.
Q Dr. Komar, you know Professor Musher?
A Yes.
Q Is Professor Musher currently in the employ of the university?
A No. He died.
Q When did he pass away?
A Last October, I think it was.
Q When you say last October—
A Previous October.
[3196] Q October 1974?
A Right. I think it was in October.
Q In other words, long after the start of the initial proceedings in this matter.
A Yes.
MR. KRAMER: By "initial proceedings," I mean what we call the first case, which is represented by Board Exhibit 2 and the many exhibits appended thereto.
HEARING OFFICER: Yes, I understand.
Q And who replaced Professor Musher?
A Professor Beck.
Q When did Professor Beck first come to work in your school?
A I think summer of 1974. Summer or fall, that I'm not positive.
Q But it was prior to the death of Professor Musher?
A Yes.
Q Did Professor Beck work on Professor Musher's research grant?
A Yes.
Q That's a fact, I take it?
A Yes.

Q Now, he didn't come to the university, did he, until the summer of '74?

A Right.

[3197] Q Now, do you know a Professor Malliavan? I'm going—

A Malliavan.

Q Malliavan, M-a-double l-i-a-v-a-n?

A Yes.

Q Does he teach as your school?

A I don't recall whether he gives a course or a seminar. But I guess you would say he teaches. It may not be a course listed in the catalogue; it may just be an advanced seminar.

Q In other words, you have some courses that aren't listed in the catalogue?

A Oh, yes.

Q And he teaches at your school.

Does he also during the course of an academic year teach at some other school?

A Yes.

Q Would you tell us about that, please?

A He's very prominent member of the faculty of the Sorbonne in Paris.

Q Would you explain how this prominent faculty member at the Sorbonne comes to teach at your school and also at the Sorbonne during one year—each year?

A Well, for one semester each year for the past two or three years, I guess, Professor Ehrenpreis of the mathe- [3198] matics department has a grant and invites him to come, essentially hires him to come here. One doesn't call it hiring at this level; it's called inviting.

Q Now, Dean Komar, is Professor Malliavan a member of the faculty of the Belfer School, or is he a full-time faculty member or part-time faculty member?

A He's a visting faculty member, I guess you would call it, full-time when he's here. He's visiting full-time.

Q One semester a year?

A Right. Right.

Q And is he on the payroll of the university?

A Yes.

Q And he draws the money—the money to pay him is drawn from Professor Ehrenpreis' grant; is that right?

A Right.

Q And is Professor Ehrenpreis he who invites him to come?

A Yes.

Q Who chooses him to come?

A Yes.

Q Selects him to come?

A That's right.

Q With this—strike that.

Now, I show you Employer's Exhibit 62, which is appended to Employer's—Board Exhibit 2, which is in evidence.

[3199] Did you prepare this exhibit (handing to witness)?

A It was prepared at my request, yes.

Q But did you prepare it?

A Personally, no.

Q So that you did not prepare this exhibit?

A No.

* * * *

MR. KRAMER: I will stipulate with counsel that this exhibit was introduced on June 27, 1974.

MR. SHECTMAN: So stipulated.

* * * *

[3200] Q This exhibit does not detail any fact that took place after June 27, 1974.

A Right.

Q In fact, Dean Komar, have additional grants been granted to members of your faculty since June 27, 1974?

A Yes.

Q And have some grants been completed since June 27, 1974?

A Yes.

Q By the way, you don't handle the grant accounting, do you?

A Nor the completion dates, termination dates, or any of that. That's handled by Dr. Patt.

Q You are generally aware of the grant situation in—

A Yes.

Q In fact, you sign—normally sign each of the grants?
A Yes.
Q Before they're sent in to the government for processing?
A Yes.
Q By that, I mean the grant application.
A The application I sign, not when they're granted by the government, just the application.
Q I see Professor Musher is listed on the first page of this exhibit, Musher, J.
[3201] A Right.
Q That is the professor who passed away since June 27?
A That's right.
Q And Professor Beck, who you referred to in your testimony, is not listed; is that correct?
A That's right.
Q That would be because he came afterwards?
A That's right.
MR. SHECTMAN: Is counsel implying that Professor Beck is a member of the Belfer full-time faculty and is a principal investigator to which this exhibit is directed?
MR. KRAMER: Professor Beck is whatever the witness testified he was. I believe the witness testified that he's a full-time member of the faculty.
THE WITNESS: That's right.
MR. KRAMER: And he's taken Musher's place on that grant. And he has—
MR. SHECTMAN: I don't think this witness has testified to that.
THE WITNESS: No, I haven't.
MR. KRAMER: All right. Strike that.
He's testified that Professor Beck was working on that grant during the summer; that it's not reflected on this exhibit because the exhibit came in June 27.
THE WITNESS: Right.
[3202] Q (By Mr. Kramer) Who has replaced Professor Musher on his grant, if anyone?
A Professor Beck.

Q That grant, I take it, is one of those grants continuing; is that so?
A It is continuing.
Q Now, I see Professor Malliavan's name on page 2 of this exhibit.
Is that the Professor Malliavan that you've just discussed?
A Yes.
Q By the way, is he the only visiting professor who is listed on this exhibit?
We're only referring now to your school. There are two schools covered by that exhibit.
A The only visiting professor listed on this exhibit, yes—no. I see Bergman is listed. And—well, he's part-time.
Q He's part-time.
A You mean visiting?
Q Exactly.
A Oh, visiting.
I guess it's only—I only see Mulliavan's name listed in that category.
Q And Mulliavan was listed under the heading involving [3203] other full-time faculty under grant?
A Right.
Q If Professor Mulliavan is not ultimately considered a full-time faculty member, he would not belong in that column; is that correct?
A That's correct.
Q He would belong in a column visiting faculty?
A Visiting faculty.
Q Or visiting full-time faculty, as the case may be?
A Right.
Q Now, although this exhibit—I'm not asking you now to update the exhibit, but, although this exhibit clearly states one visiting faculty member who participated in grants or under grants or worked under grants during 1972-73 and '73-74, in fact were there other visiting professors who worked under grants during 1972-73 and '73-'74?
A Yes.
Q Now, could you give us an idea of how many such visiting professors were employed on the grants?
And we're asking only for an approximation.

A About a dozen.
Q For 1973-74?
A Yes.
Q How about 1972-73?
A About the same.
[3204] Q Now, for 1973-74, could you give us some idea of the amount of time—I don't mean now research hours, but how long these visiting professors stayed at your school to do work under these research grants?
A Some would come for several weeks; some for a month or two; some for a few days. It varied all sorts of possibilities. Some for a whole semester.
Q You told us that Professor Mulliavan came for a whole semester.
A Right.
Q Are there any others you can recall by name who came for a whole semester the last academic year? If you can.
A I can't recall, no. I can think of some who came for extended periods, but I just don't recall how long the extended periods were.
Q Can you tell us who came for extended periods?
A Oliver Penrose—what's his name?—Oscar Lanford, L-a-n-f-o-r-d, Elliot Leel, L-e-e-l.
There were others. I can picture their faces. It takes a while to recall their names. There were quite a few others. I can't recall the names at the moment.
Q You told us about Professor Mulliavan. He taught last year too, did he not, for a semester?
A Yes.
Q Who established his salary?
[3205] A Professor Ehrenpreis.
Q You didn't negotiate the—
A I don't even recall what it is.
Q Now, who selected the visiting professors that worked at your school during 1973-74, the people you've named, the dozen or so you've named?
A The principal investigator.
Q In each instance?
A In each instance.

Q Did he also establish the salary?
A Yes.
Q For each of the vising professors?
A Yes.
Q Did these visiting professors engage in research?
A Yes.
Q Do they teach some classes?
A Some did; some didn't.
Q Did they engage in colloquia?
A Some did; some didn't.
Q Who decided what they would do?
A The principal investigator.
Q In each instance?
A In each instance.
Q You didn't decide, did you?
A No.
[3206] Q Professor Patt didn't decide, did he?
A No.
Q The president of the university didn't decide?
A No.
Q Just the principal investigator?
A Right.
Q In each instance?
A In each instance.
Q Was that also so in 1972-73?
A Yes.
Q Does that situation exist today, Professor Komar?
A Yes.
Q You have visiting professors at this school for 1974-75?
A Right.
Q On the same basis that you had them for '73-'74?
A Yes.
Q These visiting professors that were're talking about, when they visit, in essence, act like full-time employees, I would take it?
A Yes.
Q To that extent they're different than the visiting part-time professors that have been talked about in this proceeding?

A They're different. I wouldn't say that they're more [3207] or less similar to the full-time. I mean, they're just different.

They are different in the sense if they teach a course or if they give a seminar or whatever they do is not determined by the department by consensus but by the principal investigator exclusively. In that sense, they're quite different from the others.

Q Now, when these visiting professors are at the university—I'm talking about the ones at Belfer—

A Right.

Q —the ones that you've just testified about, are they employees of the university?

A Yes.

Q They draw a paycheck from the university?

A Some are paid by a paycheck; some are paid by a check, a university check, but it's out of funds—it's not out of salary funds, but, say, out of consulting—

Q They get a university paycheck?

A Yes.

Q Regardless of the source of the funds.

A Right.

Q And there is withholding taken from that paycheck?

A For the Americans, yes; not for the foreigners.

Q For the Americans?

A Yes.

[3208] Q They're covered by the university's workmen's compensation?

A I wouldn't know. I assume so, but I don't know.

Q There's no question in your mind that they're not employees of the principal investigator?

A No. No.

Q Therefore, they're employees of the university?

A Right.

Q Selected by the principal investigator?

A Yes.

Q And, if a principal investigator is happy with the functioning of the visiting professor, it's within his authority to invite that professor back the following year?

A Yes.

Q And this is exemplified by the Ehrenpreis-Mulliavan situation, right?

A Yes.

Q If he's not, it's within his power not to invite him back?

A Yes.

Q Returning to this exhibit, Dr. Komar, I see a term "predoctoral fellow."

Is that the same as a research assistant?

A Yes.

[3209] Q You've used that term in defining research assistant for us before; is that correct?

A That is correct.

Q I see the term "faculty associate."

A Right.

Q Is that—Does that term have any different meaning from the term "research associate"?

A No. It's the same thing.

Q So the fact that there are different names does not imply a different meaning?

A No.

Q I see a reference to a "full-time fellow" on page two.

A Yes.

Q Is that in reference to Professor Mulliavan?

A Yes.

Q Would that more properly be called a visiting professor?

A Yes.

Q To the extent that he's called a full-time fellow in this exhibit, full-time fellow, the exhibit should be corrected?

A That's right.

Q Now, remember we're dealing with the time period from June 27 back to the beginning of the 1972—'73-'74 school year and before when we talk of this exhibit.

[3210] A Right.

Q On the third page of the exhibit there's a Professor Raccah, correct?

A Right.

Q Now, next to his name there is no listing of full-time faculty working under the grant, no listing in column four.

A Right.

Q Is that correct?

A That's correct.

MR. SHECTMAN: You are referring, are you, now, Mr. Kramer, to the fourth page?

MR. KRAMER: I stand corrected, Mr. Shectman. It is the fourth page.

Q To the best of your recollection, Dean Komar, prior to June 27, 1974, were there in fact full-time faculty working under Professor Raccah grants?

A Yes.

Q Who were those faculty, as best you recall?

A Professor Halpern, Professor Bell and Professor Pollack.

Q These are not listed on these exhibits?

A Right.

Q To the extent they're not listed, this exhibit is in error, I take it?

[3211] A I guess so.

Q And should be corrected by adding those names?

A Yes.

Q Now, I show you Employer's Exhibit 129, Dean Komar. Professor Halpern's name does not appear on that exhibit; is that correct?

A That's correct.

Q Was he inadvertently left off?

A No.

Q Is he working for the university?

A He's no longer employed with the university.

Q Will you tell us the facts and circumstances of how Professor Halpern, whom I think you've identified as a research professor in your prior testimony—

A Right.

Q —is no longer working for the university?

A Professor Raccah decided to dispense with his services.

Q Had his services previously been dispensed with by any other principal investigator?

A He was previously employed under a national science foundation departmental development grant under the direction of Professor Liebowitz.

He was then, when he—Professor—I don't recall whether the funds ran out in that category or whatever, but Professor Liebowitz decided to have him go off that [3212] grant, and Professor Raccah then employed him under one of his research grants.

Q Did Professor Liebowitz's decision to either hire or terminate the services of Professor Halpern under the grant require your approval?

A No.

Q Did it require any financial officer's approval?

A No.

Q Did it require approval of the president of the institution?

A He was not involved, no.

Q It was Professor Liebowitz, wasn't it?

A Yes.

In the case of the hiring of Halpern, I don't know who was consulted. But, in the case of terminating him, no one was consulted. Perhaps Raccah was, but I don't really know. I was not involved.

Q Who decided to place Halpern on Liebowitz's grant?

A Liebowitz.

Q By "hiring," that's what I mean.

It was Liebowitz who decided to take him on?

A Yes.

Q It was Raccah who decided to hire him, or assign Professor Halpern to his grant?

A Right.

[3213] Q And it was Raccah who decided to dispense with his services and terminate him?

A Right.

Q As a result of that termination, Professor Halpern left the employ of the school; is that right?

A Right.

Q I mean of Yeshiva University.

A That's right.

Q No other principal investigator, I take it, was willing to hire him?

A No.

Q Or utilize his services?
A No.
Q Have there been other situations like that from time to time?
A Yes.
Q Would you tell us about that, Professor Komar?
A Well, there are dozens of people who come and go in this capacity, and I don't keep track of them at all. It never even crosses my desk.

You mean--I mean occasionally I see their names. If I wanted to, I could look up the charges and find out who they are. But basically there are names—in anticipation of this hearing, I looked through some of the files, and I found names that I had never even heard of before.
[3214] Q These are research professors of the type we're talking about?
A Yes.
Q I'm not talking about research associates.
A No. These are professors, PhDs, and they're not typically research associates.

* * * *

[3220] HEARING OFFICER: On the record.

In the off the record discussion, the parties reached agreement on a number of points, stipulations, which I will read into the record and ask for the parties agreement to them.

The first stipulation has to do with the Rabbi Isaac Elchanan Theologic Seminary, referred to in the prior testimony as RIETS, R-I-E-T-S.

For purposes of this hearing, RIETS shall not be considered a part or division of Yeshiva University, and any services performed at RIETS shall not be considered [3221] in determining full time or parttime status of the individual at the University.

Further, the Community Service Division referred to earlier as CSD, and the Cantorial Training Institute, referred to here in as CTI, are divisions of RIETS, and therefore services performed at CSD, or at CTI, shall not be considered in determining the full time or part-time status of individuals at Yeshiva University.

The final part of the stipulation has to do with Yeshiva University High School, which the parties agree is not a part or division of Yeshiva University, and therefore such services performed at the Yeshiva University High School shall not be used in determining full time or part-time status at Yeshiva University.

Do the parties agree to the stipulations as stated in the record?

Mr. Bodner?

MR. BODNER: Yes, Mr. Hearing Officer, with the understanding that some individuals associated with RIETS and or CSD, and or CTI, and or Yeshiva High Schools, may have teaching responsibilities in Yeshiva University as herein before referred to, so that the stipulation is intended to exclude only that part of their service for the respective entities previously referred to, namely RIETS and or CSD and or CTI, and or the Yeshiva High Schools.

[3222] HEARING OFFICER: Mr. Shectman, do you agree to the stipulation that I read into the record?

MR. SHECTMAN: Yes, I accept that stipulation.

So stipulated.

* * * *

RABBI HERBERT C. DORINSKY

was called as a witness, having been first duly sworn by the Hearing Officer, was examined and testified as follows:

[3223] HEARING OFFICER: Go ahead, Mr. Bodner.

DIRECT EXAMINATION

Q (By Mr. Bodner) Rabbi Dobrinsky, will you tell us what your position is at Yeshiva University?
A I am the executive assistant to the president.
Q To the president of the University, Dr. Samuel Belkin?
A Yes.
Q How long have you held that position?
A Since July 16, 1973.

Q Did you previously hold any other positions at the University?

A Yes. I was the associate director of the Community Service Division.

Q Okay.

A CSD, at RIETS.

MR. BODNER: I would just note, Mr. Hearing Officer, that the CSD just referred to by Rabbi Dobrnsky, is the subject of a stipulation that was previously entered into the record, and I will not further inquire as to its nature.

Q (By Mr. Bodner) Rabbi Dobrinsky, when was the Sephardic Studies Program formed at Yeshiva University?

A In 1946.

Q Would you describe for us the nature of the Sephardic Studies Program?

[3224] A The Sephardic Studies Program was founded by Dr. Samuel Belkin, president of Yeshiva University, and the Haham, H-a-h-a-m, Rabbi Dr. Solomon Gaon, G-a-o-n, Chief Rabbi of Sephardic Jews of the British Commonwealth, who came to Yeshiva University at that time as a visiting lecturer.

The other program founded at the same time was the Sephardic Community Activities Programs—Program, which is located under the aegis of CSD.

I was appointed as director of Sephardic Community Activities, at that time, and have for the past ten years, continued to direct that particular program.

Q Would you briefly describe for us, Rabbi Dobrinsky, what you mean by Sephardic Community Activities?

A The Sephardic Community Activities Program includes all programs relating to the Sephardic community in America, and by that I mean the United States and Canada, Latin America, in particular the more than seventy Sephardic congregations which exist in North America, by providing a program of synagogue leadership conferences, cultural activities, such as the annual Sephardic cultural festival, hosting the American Society of Sephardic Studies, which is an autonomous group of academicians, of all faiths interested in Sephardic studies,

who meet each year at Yeshiva University, placing of Rabbis, Hazzinim, (Cantors).

[3225] MR. SHECTMAN: If the Witness will pardon me for interrupting at this time, if I may, Mr. Bodner, the testimony indicates that the Sephardic Community Activities Program is under CSD.

I think it's generally understood already the nature of this program, and rather than extend the record, I think we can—I would move or ask that we limit testimony in this regard.

MR. BODNER: Yes.

I had only inquired as to the nature of the activities to clarify that the Community Actvities Program, the Sephardic Activities Program, is a part of one of the affiliates, and I take it that is correct, Rabbi Dobrinsky?

THE WITNESS: Correct.

MR. BODNER: So it is clear for the record, we are distinguishing between the Sephardic Studies Program and the Sephardic Community Actvities Program, and as to the latter, namely the Sephardic Community Activities Program, it is correct, I take it, Rabbi Dobrinsky, that this is a part of the Community—this is a part of the Community Service Division?

THE WITNESS: Correct.

MR. BODNER: This is a part of the Community Service Division, which was the subject of a previous stipulation of exclusion.

[3226] So that I will not go into any further details as to the Sephardic Community Activities Program.

I will continue my testimony of Rabbi Dobrinsky as to the other element, and that is the Sephardic Studies Program.

Q (By Mr. Bodner) Rabbi Dobrinsky, with regard to the Sephardic Studies Program, just so that it is clear for the record, does the Sephardic Studies Program offer degrees of its own?

That is, can you receive a degree from the Sephardic Studies Program, a Bachelor's or Masters degree?

A Not a degree of its own.

Q Okay.

Does it offer course credits of its own?

That is, can one receive credit listed as being from the Sephardic Studies Program or a degree?

A No.

Q Or—

A No. One can major in Sephardic Studies, as a part of the Erna Michael College program, but the degree will be the regular Bachelor of Arts degree, Hebraic Studies diploma, or the Bachelor of Science degree or the Hebrew Teachers' diploma.

Q I see.

A Of the Erna Michael College. But it is not specifically [3227] and exclusively a degree for Sephardic studies.

Q So that the Sephardic Studies Program is not a school or degree granting institute unto itself, is that correct?

A That is correct.

Q And it does not issue transcripts of its own?

A That is correct.

Q Rabbi Dobrinsky, you mentioned the Sephardic Studies major in Erna Michael College.

Would you describe that for us, please?

A I—

Q Or I should say affiliated with Erna Michael College?

A The Erna Michael College curriculum, provides for a Bachelor of Arts and Bachelor of Science degree, and students may also qualify for Hebraic Studies diploma or Hebrew Teachers' diploma.

Under the Bachelor of Arts program, a student may persue a secondary concentration in Sephardic studies, while preparing for a position in the Jewish community as an educator in general, and in particular to serve the needs of Sephardic schools.

A major in Sephardic studies is offered in the programs leading to the Bachelor of Science degree, the Hebraic Studies diploma, or the Hebrew Teachers' diploma.

[3228] Now, the requirements for this particular major are that all of the courses in the Erna Michael College catalog, in all disciplines numbered 70-79, while open to all students, are designed for those who wish to concentrate in Sephardic studies.

They are listed in a document that I can present to you, if you wish, or I can stipulate them as Education 77-78, History 5.1, 6.1, and 4 of the following courses. 71, 72, 73, 74, 75, 76. Those are all history courses.

Q Can I just interrupt for one moment?

MR. BODNER: Off the record.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

MR. BODNER: Rabbi Dobrinsky, you were referring in your testimony to a document that you were holding, and I will offer this document for identification as Employer's Exhibit 132, the document being entitled Erna Michael College of Hebraic Studies, Yeshiva University, Sephardic Studies Major.

(Whereupon, the above-mentioned document was received as Employer's Exhibit No. 132 for identification.)

MR. BODNER: I will simultaneously offer for identification as Employer's Exhibit 133, a document entitled [3229] An In-Department Report on the Progress of Yeshiva University's Sephardic Studies Program, and Sephardic Community Activities Program, with the additional designation on it, September 1971-September 1972.

I would note that the document marked for identification as 132 is—constitutes an update of a significant part of the Sephardic Studies Program, namely that part involved in the Erna Michael major in Sephardic Studies, and while Employer Exhibit 132 has not been formally adopted by the University, Rabbi Dobrinsky has read through it and will indicate any parts of it as to which there is still some uncertainty as to its final adoption.

(Whereup, the above-mentioned document was received as Employer's Exhibit No. 133 for identification.)

Q (By Mr. Bodner) Rabbi Dobrinsky, would you just identify for us on what page of the document marked

for identification as Employer Exhibit 132 there is a listing of those courses offering in the Erna Michael College that are part of the Sephardic Studies Program.

A Pages 2, 3 and 4. That is Erna Michael.

The bottom portion of page 4 we have graduate level Sephardic Studies courses, and the reason that that's included here is because some selected upper classmen may, with the approval of the dean of Erna Michael, and the dean [3230] of the University's Bernard Revel Graduate School, take graduate courses for undergraduate credit.

Q I see.

A And the instructors for these courses are drawn from the faculty of the Bernard Revel Graduate School, and on page 5 there's a listing of, and on page 6, there are listings of those courses that would be considered as graduate courses which may be taken by Erna Michael students for undergraduate credit.

Q I notice, Rabbi Dobrinsky, in Employer's Exhibit 133 for identification, there was also contained a list of courses of the Sephardic Studies Program at Erna Michael College, on pages 1 and 2 thereof, and is it correct to assume that the courses listed in Employer Exhibit 132, referring to Erna Michael College, essentially are an update of the courses listed in 133?

A That is correct.

There are some courses listed in this Exhibit 132, which are not listed in Exhibit 133.

Q Now, in addition you referred to Sephardic Studies Program courses in the Bernard Revel School.

Would you briefly describe whether credit is given for those in the Bernard Revel School, and that constitutes the courses of the Sephardic Studies Program in the Revel School?

[3231] A The formal major in Sephardic Studies is currently available only in Erna Michael College.

However, there is a study presently under way in the Bernard Revel Graduate School, by faculty and—asking for the suggestions of our visiting Professor of Sephardic Studies, who serves in the Bernard Revel Graduate School, as well as in the Erna Michael College, a program of Sephardic major is being formulated in the

Bernard Revel Graduate School.

At the present time, there are many courses of Sephardic interest in the Bernard Revel Graduate School, which have attracted a number of Sephardic students, but the program is not formalized as a Sephardic major in the same way, yet, as it is in Erna Michael.

MR. BODNER: I will not go into the courses that are not part of the Sephardic Studies Program, though they may be of interest to Sephardic students.

Q (By Mr. Bodner) I would ask you, Rabbi Dobrinsky, if there are Sephardic program study courses in any other schools, other than Erna Michael and Bernard Revel, the schools you previously described?

A There is a course, Jews Under Islam, offered in Eastern College.

Q This is referred to in Employer's Exhibit 133 for identification, on page 3 thereof?

[3232] A That's correct.

And there are other courses offered in Eastern College for women as well.

I do not know which courses are being offered this semester.

Q Okay.

A In Jewish College there is a course on Ladina, Judao-Spanish, which is to be offered this semester, depending upon the number of students that enroll.

Other courses are in the affiliate schools, such as RIETS, Cantorial Training Institute, which provides two different courses in Sephardic Liturgy or Hazzanut background, teaching both the Oriental, Eastern and the Oxidental, Western, Sephardic Nusach, N-u-s-a-c-h, (Cantillation of Liturgy).

MR. BODNER: I will just note for the record that I will not go into further detail as to Sephardic Studies Programs courses offered in any of the entities which were part of the stipulation of exclusion.

I would just also note that there is reference in Employer's 133 to courses in the Cantorial Training Institute, at page 2 and 3 thereof, and as to this, as well, since it was the subject of a stipulation of exclusion, we will not go into any further detail.

Q (By Mr. Bodner) Rabbi Dobrinsky, the courses to which [3233] you have referred that are presently taught in various schools of Yeshiva University, the faculty who teach these courses is the next subject of my inquiry.

Are any of these courses taught by an individual who holds a Chair in Sephardic Studies?

A Yes. Dr. Hayyim, H-a-y-y-i-m, J. Cohen, is the first professor to hold the Chair in Sephardic Studies at Yeshiva University, and he is teaching two courses in Erna Michael College for Hebraic Studies, and two courses in the Bernard Revel Graduate School.

Q So that his total combined course offering is four courses?

A Considered to be full time, in terms of the course load, because in addition he also has to handle dissertation work, in that he's a consultant for, and overseeing the dissertation, right now, of at least one student that I'm aware of.

Q And this is a student in which school?

A Bernard Revel Graduate School.

Q I see.

A And he's also available as a resource for research information to the University, so that he's teaching four courses and in addition, he is required to be available for additional time for consultation, and for research information.

* * * *

[3248] MR. KRAMER: I propose the following stipulation.

Page 3108, line 16, duties should read degrees.

Page 3109 Professor Behrings name is B-e-h-r-i-n-d-s.

HEARING OFFICER: How about the bottom of 3108, where we have theoresical physics?

MR. KRAMER: I'm not going to try to correct the typist. There are so many.

HEARING OFFICER: I see what you mean.

MR. KRAMER: Page 3116—

[3249] HEARING OFFICER: I don't have that page, I'm sorry.

MR. KRAMER: Line 23, should read math and science education department.

Page 3117, line 10, Belfer should read Ferkauf.

Line 16 of that same page, the words, "the depth, should be replaced with the words "a state".

On page 3119, line one, the line should read "now since much of this has just been promulgated within this, as opposed to what it reads now.

On page 3118, line 24, after word university, should be inserted, "except for the".

HEARING OFFICER: Except for what?

MR. KRAMER: The department of the, should be after "of College of Medicine".

That line should read, to correct it by stipulation, line 24 of page 3118, "department of the entire University, except for the department at the College."

Page 3128, line 16 and 17, should read as follows:

"If we had television for the reader of the record, if he saw the smiles in the room, he".

Page 3130, line 4, striard, should read striar, s-t-r-i-a-r.

The paragraph beginning at line 5 and ending at line 12 should read. However, as I recall the record, putting that aside, all witnesses have testified basically that the [3250] University load is 12 hours or four courses. As I recall Dr. Fishman saying, it is the requirement of 12 hours or the equivalent of that, I do not recall, putting aside those two witnesses which I cannot comment on, because I haven't read their testimony, that the record is not to that effect."

Page 3132 line 8, the word the should be replaced with the word each.

3135, line 18, the word governing should be replaced with the word governance.

3137 line 6, the word natural should be replaced by the word actual.

Page 3138 line 10 and thereafter, where ever this errow may appear, the words Dean Iomar, I-o-m-a-r, the I is incorrect, it should be Komar, K-o-m-a-r.

HEARING OFFICER: Excuse me, before you go on, Mr. Kramer.

3136, what line did you see natural on?

MR. KRAMER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

MR. KRAMER: 3140, line 6, the word the should be them.

3143, line 18 should read as they zoom in on one or two people, they.

[3251] And on line 20, "colloquy" should be colloquium.

3171, line 18, the word trainingship grounds, should changed to training grants.

I stand corrected.

Those words should be traineeship, t-r-a-i-n-e-e-s-h-i-p grants, instead of training grants.

HEARING OFFICER: Anything else, Mr. Kramer?

MR. KRAMER: No, sir.

That is my stipulation.

HEARING OFFICER: Mr. Shectman, do you agree to the stipulation?

MR. SHECTMAN: I'm in agreement with the stipulation.

* * * *

[3253] A The ranges of new employees, or in general?

Q In general?

A I think I testified to that last time.

Full professors run, well, it's changed since my last testimony, because there have been so promotions, I think.

Q Your testimony reflects a range of from 12 to 40 thousand. It makes no differentiations?

A That's right.

It's in that range, yes.

Q No, no. For each rank now, Dean Komar, approximately.

A Okay.

Approximately. Let's say full professors I'd say run from approximately 19,000 to somewhat under 40,000 on a nine month basis.

Q Yes.

A Academic salary. Associate professors run, I'm trying to think, I would say from 14 to about 23, and

assistants—Well, sought or—no, no assistants, I'm sorry, run from 13 to 23.

Associates—do we have any associates? Oh, somewhere an—say between 15 and 25 would be safe. Somewhere in that ball park. I don't know off hand.

[3254] Q You have told us that the salaries in the range you have just described apply to the academic year, or nine month year, is that correct?

A Yes.

Q Do your faculty members, however, work only a nine month year?

A No. Many of them work a 12 month year.

Q Where does the—correction, strike that.

What is the source of the additional three months employment, or the sources of the additional three months employment, as the case may be.

A Generally, their additional income is derived from research grants. They're permitted to earn a third more over the nine month salary, if they have grant support.

Q Grant support, however, Dean Komar, is not limited simply to the summer, is it?

A No.

* * * *

[DEAN ARTHUR KOMAR—
DIRECT EXAMINATION, RESUMED]

* * * *

Q (By Mr. Kramer) In preparation for your testimony today, Dr. Komar, at my request did I ask you to prepare an updated list of current grants and pending grants, and I'm referring to research grants, in your school?

[3255] A Yes.

Q Did you have such a list prepared by someone under your overall supervision and control?

A Yes.

Q Who was that, Dean Komar?

A My secretary.

Q Did you check the list that she prepared against your own recollection?

A Yes, I did.

Q To the best of your knowledge, is that list correct?

A Yes.

Q Now, in preparing this list, did I ask you to limit your self to faculty type personnel, as opposed to technicians, secretaries, and research assistants?

A That's correct.

Q I show you Employer's Exhibit 134 marked for identification, a document entitled Belfer Graduate School of Science, Yeshiva University, current grants, in the right hand corner, updated 1-17-75.

Is this the document I asked you to have prepared for us?

A Yes.

Q The document has certain names underlined in blue, and certain names underlined in red.

Would you tell us, Dean Komar, what the blue [3256] underlining stands for?

A The blue underlined name is the principal investigator.

Q And the red underlined names are other doctorial faculty members who are on the grants in varying capacities, depending upon the grant.

Q You have not included, have you, research assistants?

A No.

Q Those would be pre-doctoral people?

A Those would be pre-doctoral people.

Q Let's turn to the second page of this Exhibit.

To the first grant on that page. I'd like you to number the page at the bottom in pencil, please, if you would, as page 2.

Would you number each of the pages thereafter, too?

(Witnesse complies.)

Q Looking to the first grant on that page, to the name Dr. h. Choi, C-h-o-i—

A Right.

Q Is that the Dr. Choi that you referred to previously in your testimony?

A Yes.

Q Now, let's turn to the second grant on that page, to Donald Beck. Is that the Donald Beck to whom you referred previously?

[3257] A Yes.

Q Next to his name is Ian Cooper. Who is Ian Cooper?

A Well, I never met him personally. He was hired by Professor Musher. He is professor at another university, I don't recall which one. I don't recall which one. He was hired by Musher to work on his grant for some period of time.

Q Now, did he in fact work on that grant?

A Yes.

Q Was he paid by the University for that work?

A Yes.

Q Let's turn to the next name, Dita, Hellwinkel, H-e-l-l-w-i-n-k-e-l.

A Dita Hellwinkel. He was a professor from Germany. He is I—I think his regular post is at a German university if I remember correctly. He again was hired by Professor Musher to work on that particular grant. I have never met him.

Q Did he in fact work at Yeshiva University?

A Yes.

Q Was he an employee of the University, when he worked there?

A Yes.

Q Now, Jeremy Musher, you have told us, has passed away?

[3258] A Correct.

Q Has been replaced by Donald Beck, is that so?

A That's correct.

Q Let's turn to the fourth name on the second grant, page 2 of the Exhibit 134, and to the name Dr. V. B-o-n-a-c-i-c, K-o-u-t-e-c-k-y.

Would you tell us what his status is?

A It's a woman.

Q Her status is?

A She is a chemist, doctoral chemist, I believe from Romania, and she was employed at that time by Professor Musher, to work on that grant for him.

Q Does she have a full time appointment as a member of the faculty at Belfer School of Science?

A She did at that time. She did during some period during the lifetime of the grant which ran from 1971 to

1975. She's no longer employed. She left. She's now in Germany.

Q Who was she hired by?

A Professor Musher.

Q As a result of that hiring, she became a full time faculty member of the school?

A Yes.

Q She's now no longer with the school, I take it?

A Right.

Q Now let's turn to the third grand on page 2 of the [3259] Employer's Exhibit 134.

I see there the principal investigator is Jeremy Musher. He's passed away. Has a replacement been selected?

A I am not sure. If so, it would be probably Professor Beck, but the—that's not a government grant, that's a grant from the American Chemical Society, and it's a litle more freewheeling in discretion.

Q Donald Beck appears as a faculty associate on that grant?

A Correct.

Q You told us how Dr. Beck came to be employed in the University.

A He was hired by Professor Musher, initially.

Q That was last summer?

A Yes.

Q Let's turn to the second name on that third grant on page two, H. Nakatsuji. Would you tell us what Professor Nakatsuji's status is?

A He is—I really don't know him at all. I have never seen him. I never, in fact, was aware of the name until we were preparing this list.

However, he was hired by Professor Musher, he is a post-doctoral person, to work on his grant, to aid Musher in the research being performed on the grant.

[3260] Q While he worked on the research on the grant with his post doctoral degree, he was an employee of the University?

A Correct.

Q Doing scholarly work, Dr. Komar?

A That's correct.

Q Now, let's turn to page 3 of the Employer's Exhibit 134. The second grant on the page. That grant, principal investigator is Louis Coburn, is that correct?

A That's correct.

Q A full time faculty member of your school, is that right?

A That's right.

Q Under his name are two co-principal investigators, Charles Berger and Arnold Lebow. Are they both faculty members, holding full time appointments at your school?

A Yes.

Q Now, let's turn to a fourth name on—under the grant, also underlined in red, together with Berger and Lebow, an S. Anastasio, faculty associate.

What is his status or her status on that grant?

A He is a post-doctoral person who was hired by them to work on that grant. I don't know who he is.

There again, I was not familiar with that name until we went through the records to prepare this list.

[3261] Q That hiring was made by whom?

A By Professor Coburn.

Q Did Mr. Anastasio, or Ms. Anastasio, engage in scholarly work under that grant?

A I presume so. The grant is a research grant, and this is a post-doctoral person.

Q Let's turn to the third grant on page three of Employer's Exhibit 134, and I note there the name, underscored in red, next to the appellation visiting faculty associate, Paul Malliavin, M-a-l-l-i-a-v-i-n. Is that the same gentleman to whom you referred in your prior testimony?

A That's correct.

Q Now, let's turn to the fourth grant on page three, the principal investigator on that grant appears to be an Adam Koranyi, correct?

A Correct.

Q He is a full time faculty member at your school?

A Yes.

Q Holding a base appointment in your school?

A Yes.

Q On that same grant is the name Robert Putts next to the title faculty associate?
A That's right.
Q Do you know Robert Putts?
A Yes.
[3262] Q What is his status, Dean Komar?
A He is a post-doctoral, I think he's an assistant professor, if I remember—either an instructor or assistant professor in the mathematics department. A full time faculty member in the mathematics department.
Q Who hired him for that grant?
A Professor Koranyi, K-o-r-a-n-y-i.
Q Now let's turn to the fourth pafe of Employer's Exhibit 134, to the first grant thereon.
That grant shows a principal investigator a G. W. Cameron, is that correct?
A Correct.
Q Full time faculty member at your school?
A Yes.
Q By the way, all the principal investigators on this list are full time faculty members at your school, are they not?
A Yes.
Professor Cameron is on leave of absence without pay, for the past few years, but he still administers the grant in our school.
Q Does he draw salary from that grant?
A I don't—he did at one time. For the current year, I don't believe so, but I'm not sure.
Q He's on leave of absence, but still administers the [3263] grant?
A Correct.
Q He's still an employee, is he not, of Yeshiva University?
A Yes.
Q Though on leave of absence?
A Yes.
Q Now, who are the four—there are four—strike that.
There are four names underlined in red on that grant?
A Yes.

Q Let's take the first one, R. Buchler. Do you know who R. Buchler is, B-u-c-h-l-e-r?
A He was a, I think assistant professor was his range, in the physics department.
Q Full time?
A Full time.
Q Base appointment in your school?
A Yes.
Q Hired by whom, onto this grant?
A By Professor Cameron.
Q The next name is L. Landovitz, La-n-d-o-v-i-t-z. Do you know who L. Landovitz is?
A Yes. He's a full professor of physics in the physics department.
[3264] Q Who selected him to work on this grant?
A Professor Cameron.
Q Let's look at the next name, J. Littleton. Do you know who J. Littleton is?
A Not really. He was hired by Professor Cameron. I don't believe I have ever met him. But he's a post-doctoral person doing research with Professor Cameron.
Q Selected by Professor Cameron?
A Yes.
Q When he did hs research as the case of all post-doctoral fellows—
A Yes—
Q —he was an employee of Yeshiva University?
A Yes.
Q Engaged in scholarly work?
A Yes.
Q Turn to J. Truran.
A Yes.
Q Do you know J. Truran?
A Yes.
Q Would you tell us his status at Yeshiva University?
A Since he left us this passed year, or was it two years ago, but he was, I believe a full professor of physics in the physics department, regular appointment. And he has since resigned his appointment.
[3265] Q Who secured his assignment on that grant?
A Professor Cameron.

Q Let's turn to the third grant on page four of Employer's Exhibit 134.

A Right.

Q I see there the principal investigator is a Joel L. Lebowitz, is that correct?

A Correct.

Q What's Mr. or Professor Lebowitz' position?

A He's chairman of the physics department.

Q Now, underneath his name, next to the title visiting faculty associates, are three names.

The first is O. E. Lanford III. Are you aware of his status?

A He has visited Professor Lebowitz for an extended period of time, and was supported by Professor Lebowitz' grant. How long the period of time was, I don't recall, but it was in excess of a week, because the list for Professor Lebowitz was extremely long, and it would fill several pages, if we didn't have some cut off in who we were to include.

Q In other words, just so that we are clear on this, Professor Komar, you have not listed under Professor Lebowitz' grant, number AFOSR73-2430B, on page four of Employer's Exhibit 134, all of the visiting faculty associates, is that [3266] correct?

A No. No.

Q What was the cut off that you used?

A In excess of a week, during this present academic year.

Q I assume there were many shorter than a week?

A During this year, and many longer than a week during previous years.

Q Those longer than a week during previous years, are not listed at all, is that correct?

A Not on this list, no. Some of them may have appeared on the earlier list.

Q By that you mean Employer's Exhibit 62, appended to Board Exhibit 2, is that correct?

A That's right.

Q Now, let's turn to O. Penrose. That's the second name next to that third grant on page four.

Is that the name O. Penrose that you referred to in your previous testimony?

A That's right.

Q Finally, there's an L. K. Runnels, R-u-n-n-e-l-s. Underlined in red, next to that title, visiting faculty associate on that third grant on page four of Employer's Exhibit 134. Do you know his status?

A I don't know who he is. I just know from the records [3267] that he visited us during the present academic year, for a period in excess of a week. But I have no idea who he is. He's a post-doctoral person, from another university. But where, I don't know.

Q Is it a fact, Dean Komar, that Messrs. Lanford, Penrose and Runnels, were all employees of the University?

A Yes.

Q All paid by the University?

A Yes.

Q All did scholarly work at the University?

A Correct.

Q All on Professor Lebowitz' grant?

A Yes.

Q All hired by Professor Lebowitz?

A Right.

Q There are additional faculty members—correction. Additional visiting faculty members this year, who visited for less than a week?

A Yes.

Q Who were selected an hired by Professor Lebowitz?

A That's right.

Q Is it also a fact that there were faculty members during the 1973-1974 term, visiting faculty members, who were not—who were hired by Professor Lebowitz, who are not shown at all on this Exhibit?

[3268] A That's correct.

Q That's so whether they worked a week or more?

A Right.

Q Let's turn to the fourth grant on page four of Employer's Exhibit 134, a grant of Paul M. Raccah, R-a-c-c-a-h, listing two faculty associates, T. Halpern and F. Pollack.

Is the T. Halpern the gentleman about whom you testified last time?

A That's correct.

Q Let's turn to the name of F. Pollack. Will you tell us what Mr. Pollack's status is?

A Professor Pollack is a professor of physics in the physics department.

I'm just trying to recall now whether—I think he's a full professor.

Either associate or full, I just don't recall. But he's a regular faculty member.

[3269] Q Was Mr. Pollack hired for this grant, by Professor Raccah?

A Yes.

Q Let's turn to the next grant right under that, a grant of $148,840.00 to—through a principal investigator, Paul M. Raccah.

Is that the same Progessor Raccah?

A Yes.

Q This grant shows three faculty associates, an M. Bell, A. T. Halpern, and an F. Pollack.

Is that the same Halpern and Pollack you've referred to previously?

A Yes.

Q Would your answers with respect to Halpern and Pollack be the same for this grant, as they were for the previous grant that I questioned you about?

A Yes.

Q Let's turn to the name, M. Bell.

Would you tell us what the status of M. Bell is?

A M. Bell, Professor Bell is an assistant professor in the Physics Department.

Q Who hired him for that grant?

A Professor Raccah.

Q Okay.

A I should say, Professor Bell is on a status [3270] whereby he is supported entirely by grant funds, and whether he would be retained or not depends on Professor Raccah.

I mean, retained in the University.

Q In other words, if Professor Raccah didn't want him on that grant, and he couldn't secure employment through another principal investigator, he would have no job, is that what you're saying?

A That's exactly what I'm saying.

Q Let's turn to the next grant, also a grant to Paul M. Raccah, the next to last grant listed on Page 4 of Employer's Exhibit 134, the faculty associate on that $40,000.00 grant appears to be F. Pollack.

Is that the same F. Pollack referred to above?

A Yes.

Q Would your answers with respect to Mr. Pollack be the same as they were with respect to the other grants in which he's listed?

A Yes.

Q Would that be true with respect to the next grant, which also shows principal investigator, Paul M. Raccah, and a faculty associate, F. Pollack?

A Yes.

Q Let's turn, Dean Komar, to Page 5 of Employer's Exhibit 134, more particularly to the second grant [3271] listed there, the principal investigator on that grant is Jonathan Wachtel, is that correct?

A Yes.

Q Is Jonathan Wachtel a full time faculty member at your school?

A Yes.

He's—He's an associate professor in the Physics Department.

Q But he's a full time faculty member, is he not?

A Yes.

Q Holding a base appointment in your school?

A Yes.

Q That grant lists a faculty associate, H. Presby. Do you know H. Presby?

A Yes.

Q Would you tell us about his status, please?

A He was an assistant professor in the Physics Department.

He has since left the University.

Q Who hired him for the grant listed on Page 5?
A Professor Wachtel.
Q He was hired while he was an assistant professor, was he not?
A Yes.
Q And secured employment on that grant, and compensation [3272] as a result thereof, it that correct?
A That's right.
Q Now, I note that Pages 6, 7 and 8 start under the heading, Pending Proposals, is that correct?
A Yes.
Q How do those differ from Pages 1 to 5?
A One to five are proposals already granted by the granting agencies.
So, they are in force at the moment.
Q But Pages 6, 7 and 8 are not in force, are they?
A No.
Q All right.
Are all the persons underlined in blue, full time faculty members, holding base appointments in your school?
A Yes.
Q Now, let's turn to Page 7, and to the second grant sought in the amount of $215,695.00 by Lewis A. Coburn, and listing co-principal investigators, Charles Berger and Arnold Lebow.
Are Charles Berger and Arnold Lebow full time faculty members of your school?
A Yes.
Q Now, Dr. Komar, this grant being sought in the amount of $215,695.00, is for what period of time?
[3273] A From May 1st, 1975, to April 30th, 1978.
Q Now, given the amount of money being sought under that grant, and given the terms of that grant, to the extent that you may know them, will the faculty members who are either principal or investigator, or co-principal investigators, on that grant, have the authority, within the grant, to hire faculty associates, research associates, visiting faculty members, for that grant?
A They would have the authority, provided the funds are available—provided funds are available within the budget which is finally granted.

Q Assuming that number was $215,695.00, that authority would exist, would it not?
A Yes.
Q Now, I note that the third grant lists a Leon Erenprice as the principal investigator, and Paul Malevian as the investigating faculty associate.
Who chose Paul Malevian to be the visiting faculty associate on that grant?
A Professor Erenprice.
Q Did you have anything to do with that?
A Nothing at all.
Q That's the third grant on Page 7, is that correct?
A Yes.
[3274] Third grant proposal.
These are proposals.
Q Yes, sir.
Now, with respect to the fifth grant on that page, I note that it's under principal investigator, Adam Koranyi, and faculty associate, Robert Putts.
Are those the same gentlemen we talked about previously?
A Yes.
Q Who selected Robert Putts to be the faculty associate on that grant?
A Professor Koranyi.
Q Did you have anything to do with that?
A No.
Q If that grant is granted by the government, will Putts secure employment there?
A If Koranyi so chooses.
In fact, Professor Putts, I guess he's either Professor or Instructor, is planning to leave at the end of this academic year, in which case, it will be up to Professor Koranyi to decide what to do about the grant, whether to replace Putts by someone else, or to retain him.
Q He would have the authority to choose?
A Yes.
[3275] Q To make the hiring in this particular case?
A Yes.

Q Now, Dr. Komar, just so the record is clear, in addition to the faculty-type personnel we've just reviewed, are other personnel employed on grants of the type, either granted or being sought, which is described in Employer's Exhibit 134?

A Yes.

Q Would you tell us the type of non-faculty personnel that work on these grants?

Obviously, it differs from grant to grant, but give us an overview, if you would?

A Generally, there are research assistants, who are pre-doctoral students.

There are secretaries, there are, occasionally, technicians.

Lab assistants.

Q Now,—

A I guess that's about it.

Q Let's turn for a moment to the technicians you have just referred to.

How were they selected, Dr. Komar?

A I—

Q I'll rephrase that question.

How were they hired?

[3276] A When a principal investigator requires the services of a technician, he hired one.

Q From the outside?

A Providing the funds are available in the grant, yes.

Q From the outside market?

A Yes.

Q Do you hire him?

A No.

Q Does Dr. Sokol hire him?

A No.

He has to approve, I suppose, the payroll memo.

That's about it.

Q That would be a routine approval, would it not?

A Yes.

Q The hiring is done by the principal investigator?

A Yes.

Q If the principal investigator is dissatisfied with that laboratory assistant, he can have the authority to terminate him, I would assume?

A Yes, to the extent that they're not unionized.

I imagine that would present complications.

Q To the extent they're unionized, he would have the power effectively to recommend termination?

A Yes.

[3277] Q The same way that a foreman would in an auto factory, isn't that correct?

A Exactly.

Q Would you tell us how secretaries are selected for this grant, for these grants?

A Well, it varies.

Those grants which have enough money to support an entire secretary of their own, the principal investigator simply selects a secretary.

Q By select, you mean,—

A He interviews them and says, this is the one I want, or if he wants to terminate her because he doesn't like her work, he simply says, I want her terminated.

Many of the grants cannot support a full time secretary, and so we have a secretarial pool, and the principal investigators request secretarial service, and frequently are assigned a particular person in the pool, which is then charged to his grant.

If he is dissatisfied with the person assigned to him on his grant, he can ask that she be removed and someone else be assigned.

Q His request to that effect, about reassignment, is normally granted?

A Yes.

[3278] Q Do you have any idea, Dean Komar, what percentage of time, full time faculty in your school, who are principal investigators, spend in supervising, managing, directing, assigning, the non-faculty type employees, or non-professional employees, as we would call them, who work under these grants?

A It varies from person to person.

I imagine that, I mean, I don't know firsthand, I imagine that someone—

• • • •

[3285] Q You have told us previously that you have had research grants yourself, is that correct?

A Yes.

[3286] Q Have you had non-faculty personnel assigned to those grants?

A Secretaries and graduate students.

Q Could you tell us with any degree of accuracy, what percentage of your overall working time, during the particular academic year, when you had one of those grants, was spent in supervising, managing, director or controlling those non-faculty personnel?

A Not really.

It varied all over the place.

Some weeks I was completely tied up with the secretary or a graduate student.

Other weeks, I was not as much.

I mean, it would be very hard to estimate.

Q Are records kept on that basis, Dean Komar?

A No records were kept on that basis.

* * * *

[3289] Q (By Mr. Kramer) Dr. Komar, who is responsible for seeing to it that the faculty or professional type personnel employed on these grants, in fact, do their work?

A The principal investigator.

Q You don't go around seeing to it that they do it, do you?

A Not at all.

Q Who is responsible for seeing to the quality of that work?

A The principal investigator.

Q Who has the authority to transfer these professional personnel from one task or function or assignment, to another?

A The principal investigator.

Q You don't do it, do you?

A Not at all.

Q Assistant Dean Patt doesn't do it, does he?

A No.

Q Dr. Fishman doesn't do it?

A No.

Q Dr. Sokol doesn't do it?

A No.

[3290] Q It's not done in the grant accounting office of the main University, is it?

A No.

Q If, in fact, Dean Komar, the professional personnel working on the grants under the aegis of the principal investigator are not being supervised by the principal investigator, they are unsupervised, is that correct?

A I imagine so.

Q There isn't anybody else?

A There isn't anybody else.

* * * *

[3319] Whereupon,

ARTHUR G. KOMAR,

having been previously duly sworn, resumed and testified further as follows:

* * * *

MR. KRAMER: Yes, sir, I have two corrections for the record.

HEARING OFFICER: Okay.

Will you please read them into the record.

MR. KRAMER: In the hearing of January 15th, at page 3154, line 12, the third word from the end should read "tantrums."

HEARING OFFICER: And your second correction?

[3320] MR. KRAMER: And on page 3186 the word "measuring" which is found on line 6 should be "meshing."

HEARING OFFICER: Okay.

* * * *

CROSS EXAMINATION

* * * *

[3323] Q Pursuant to the faculty handbook did these members of your full-time faculty obtain your permission to teach outside of the university?

A Yes.

Q And do they—does—and does Professor Pomerantz [3324] have a full-time teaching load or its equivalent at the Belfer Graduate School?

A Yes.

* * * *

[3331] Q What percentage of your full time faculty is tenured?

A About 80 percent, maybe 90 percent. I don't really know.

I mean, I didn't do the exact estimate but it's a very high percentage.

Q Between 80 and 90 percent?

A I would guess offhand.

* * * *

[3336] Q The department chairmen at the Belfer School of [3337] Science are elected, are they not?

A Yes.

They are elected by their faculty members in similar discipline?

A In their department.

HEARING OFFICER: Are all the members of the department allowed to vote?

THE WITNESS: Yes.

HEARING OFFICER: On the election?

THE WITNESS: Yes.

HEARING OFFICER: That would be part-time and full-time?

THE WITNESS: It doesn't work that way.

It is done—there is not a vote of yes or no. It is generally a consensus and if there are—if part-time person is present at the meeting, his consensus is—he contributes to the consensus as well.

I mean, it is not secret ballot or votes really

I mean, I suppose if someone wanted to insist on a closed secret ballot, this has never—on a closed secret ballot I imagine—I mean the department would then have to decide whether to allow a part-time person who is present to vote or not and since this has never occurred, I don't know what would happen.

I can see it going one way one time and another [3338] way another time.

Q Are you then saying, Dean Komar, that the full-time faculty of the department might then elect at its option the participation or non-participation of part-time faculty time in this election?

A That's correct.

Q Do department chairman upon their election receive any increment in their salary or compensation for service in that regard?

A Formally, no.

Q Do they receive any equivalent time or reduction in their work load?

A If they choose to take it, they can have it, yes.

Q Are there any department chairmen who have chosen to take it?

A Yes.

Q Who is that?

A I believe Professor Pomerantz has chosen to take it.

I am not sure about Professor Lebowitz, sometimes he does, sometimes he doesn't.

Q Could you describe in more detail the situation with regard to Professor Pomerantz?

A It depends to a large extent on the demand for staffing courses.

[3339] If the demands on the—to staff courses cannot adequately be met by the faculty for a given semester, Professor Pomerantz who teaches normally two course load, however, if the demand in any one semester is a bit lighter he would have the option of taking a one course load but it's at his discretion.

Q Do department chairman have secretaries?

A Some do; some don't.

Q Do those secretaries—

A They all have secretarial service. I assume you mean do they have a private secretary exclusively for themselves.

Q Yes, do they?

A Some do; some don't.

Q Who does?

A Professor Pomerantz does.

For awhile Professor Grosof does not.

For awhile she shared one but until this year she had a private secretary.

Q Is that secretary provided solely in connection with any duties that they, that they have, such as department chairmen?

A Solely?

Q Yes.
A No.
[3340] The secretary helps them not only in their administrative work but also in their research, typing paper.
The secretaries just don't do one thing. It's a mixture.
Q So then other faculty members have secretaries as well?
A That's right.
Q So then, the status of department chairmen does not automatically or necessarily include provision of an assigned or designated secretary, does it?
A A department chairman has an assigned designated secretary, yes.
Q You testified previously that not all department chairmen do.
A They are assigned a specific secretary for departmental matters but she doesn't only do that. She does other things, as well.
Q And do other members of the department have access and the use of that secretary?
A Frequently.
Q You referred, did you not, to the process by which new faculty are hired at Belfer Graduate School.
A Yes.
Q And is that process in fact conducted pursuant to the procedures set forth in the Belfer Graduate School [3341] of Science by laws?
A Whatever that may be.
Could you read me what you are referring to?
Q I will show you Employer's Exhibit 131, Section 5, new faculty appointments (handing).
A Yes.
HEARING OFFICER: Paragraph 5, page 5 of the exhibit.
Q To the best of your knowledge, Dean Komar, is that process substantially complied with by the departments?
A In part, yes. In part, no.
Q Could you be more specific?
A Well, let's take it point by point.

New faculty appointments including visiting appointments are made by the president upon recommendation by the dean and the department.
That's in part true and in part false, because visiting appointments are frequently not made by the president but can be by the principal investor, or by the chairman of the department on some occasions.
So that's false—not quite true.
Q On what occasions would the chairman of the department do so?
A Well, in the case of the Physics department, the chairman of the physics department for a number of years, for five years until this past June was the principal [3342] investor on a departmental development grant from the National Science Foundation and in that capacity he made appointments.
Q So then he appointed someone to work with him in furtherance of that grant?
A Not to work with him and not in furtherance of the grant.
The grant was issued specifically for the benefit of the physics department, not for that—for the benefit of the research of the chairman and the appointments were made to the physics department.
They were discussed in the physics department and they were voted by the physics department but the appointment letter was sent by the chairman of the department.
Q And that was pursuant to the election of the other —of the department members, correct?
A Yes, it was on a recommendation of the department members.
But it was not—I don't recall whether—some of the appointments may have received letters from the president but I don't really recall.
I know a letter of invitation for many of them came directly from the department chairman so that part is not correct.
In addition the faculty committee shall each year [3343] consider the number of new faculty departments desired by the department at that time and make its recommendations.

I don't recall that ever happening.

Any situation that causes departures from these recommendations by the faculty committee shall require reconsideration and new recommendations by the faculty committee.

I don't recall that ever happening.

I mean, it may have happened once but I don't recall really.

To go on, each department may establish its own procedures for the investigation and recommendation of new faculty members.

That certainly is true, except that recommendations by the department shall require a two-thirds vote of the department for the proposed appointment and rank.

Well, as I testified earlier, one generally doesn't vote so it is done by consensus so one never worries about the two-thirds requirement.

Q You are saying when the issue is raised before the members of the department there is generally a conference rather than any specific council?

A That's correct.

[3344] Department recommendation for appointment presented to the dean for approval, that's correct.

Consultation with department chairmen regarding proposal for the appointment, that's correct.

And transmittal to the present, well, as I indicated those which appointments which are transmitted to the president are transmitted, but there have been those which have not been.

Shall I go on?

In the absence of approval by the dean the department originating the recommendation may upon due reconsideration and by a two-thirds vote submit the matter to the faculty committee for review, but that has never happened.

On the basis of this review, et cetera, it goes on the basis of the review, well, this is talking about the situation that has never occurred.

That is the end of that section.

Q Do you have any knowledge of any departments where in fact the proposed starting salary of a new faculty member may be discussed by the department?

A Not offhand.

It may well have happened in some departments.

I don't attend departmental meetings except in the physics department.

[3345] Q You indicated that these department chairmen were elected by the members of their department.

Do you have any knowledge of the members of any particular department ever voting out of office or out of position a department chairman?

A Oh, yes.

Q And when was that?

A It happened several times.

It happened in the mathematics department, when Professor Schecter was chairman.

It happened in chemistry when Spindel was chairman.

Yes, it happens now and then.

HEARING OFFICER: Excuse me.

When a department chairman is removed from office, is that done by consensus or by vote?

THE WITNESS: Since I was not present at any of those meetings, because it never happened in the physics department, I can't give any first-hand testimony on that.

The minutes—I am trying to recall if they said in the minutes whether a vote was taken.

Generally a department chairman is elected for a three-year term, so there is no need to remove him—I mean, unless you want to earlier. I don't know the provisions on that, but usually when his term expires [3346] you have to either reappoint him or elect a new chairman and my impression is that the consensus generally is that they want a new chairman and so I don't recall whether a vote is taken.

HEARING OFFICER: Okay.

Getting back to that point has a chairman ever been removed prior to the end of his term?

THE WITNESS: Well, prior to the end—the establishment of this document, the situation as to the status of chairman was ambiguous in the school.

As such there was one chairman, Professor Schecter, who was appointed by the dean, I believe.

There is some ambiguity or confusion as to how he was appointed, whether by the dean with the approval of the mathematics department or without.

Also there was some ambiguity as to whether he was appointed for life or for a limited term.

These formal structures did not exist at that time.

HEARING OFFICER: This is before you became dean?

A This is before I became dean—however, after I became dean and this formal structure was set up, there was an implied grandfather clause that this particular chairman is chairman for life or whether he's now subject to this three-year reelection provision and there was a big argument over that and finally—I don't—[3347] he—I don't recall the precise legal procedures by which it was resolved but in effect he was no longer chairman.

He was either removed, I don't know whether by faculty vote or what, but—or whether he ultimately resigned because of a lot of hostility about his claiming the existence of a grandfather clause.

In any event, there may have been a vote at that time to remove him but I don't know for a fact.

Since then that kind of problem has never arisen.

Q Was Professor Gelbart another department chairman who was voted out of that position?

A Professor Gelbart was the dean of the school.

He also claimed to be the chairman of—he claimed to be a member of the mathematics department but the chairman of the mathematics and science education department, he claimed however, not to be a member of the mathematics and science education department, so the situation was totally confused.

Whether he could be the chairman of a department of which he was not a member and be the dean of the school and this again all had to do with a situation prior to the formalization of all this.

Q But subsequent to his leaving the position as the dean of the Belfer School, do you recall whether [3348] in fact he was voted out of that chairmanship you referred to?

A No.

I believe—I certainly—by the members of the department, by his own claim did not include him, did not want him to be chairman.

Whether they had the authority to remove him or not was subject to dispute because he claimed that—he had his claim on the chairmanship as directly from the president of the university and therefore was not subject to any of these rules.

He was—I don't know whether he was voted out or not, but he was certainly removed essentially by the president of the university.

* * * *

Q Does there exist a promotions committee at the Belfer Graduate School?

A No, not to my knowledge.

Q And have you considered or recently undertaken any efforts to procure promotions for any members of your faculty?

A Yes.

[3349] Q Could you tell us what steps you took to obtain the authority to make such promotions?

A I don't have the authority to make promotions.

Q Could you tell us how you then obtained the authority or permission to make such promotions?

A No, I don't have it.

The promotions are made by the president of the university, in a letter.

I assume your question means how do I persuade the president to issue such a letter.

Q That's correct.

A Okay.

The department recommends—there is a formal set of rules—which I believe I testified to earlier—okay, I can repeat it.

The members of—the members of the department senior to the person being considered assemble at a meeting and discuss the credentials of the person being considered for promotion.

After this discussion they then decide whether they choose to recommend him or not.

There again it's never been an issue of whether they choose by a majority vote or two-thirds vote, it is general consensus agreement.

If they so recommend they—they send this [3350] recommendation to me.

Q Are you then charged to—to undertake certain efforts to obtain the authorization or permission from the president of the university?

A I transmit this recommendation to the vice president for academic affairs with my comments and he transmits then his recommendation with his comments to the president of the university.

Q So then before it gets to the president and between you and the president there is yet another person involved in that process?

A Vice president for academic affairs.

Q Has he ever modified any of your requests?

A Oh, yes.

Q And the promotion you indicated was finalized by notice from the president of the university?

A Right.

* * * *

[3351] Q Is there a library at the Belfer Graduate School?

A Yes.

Q And have there been any plans to move that library?

A Plans? On whose part?

Q On the part of the university admission, Dean Komar.

A It's been discussed occasionally up and back.

Q By whom?

A By various gossip things.

I never got a straight answer as to who—I mean, members of the library committee came to me with rumors that it was discussed with occasionally the vice president of business affairs, with the vice president for academic affairs, with myself, but—I gather it was—this is all second-hand, I gather it may have been discussed with the

director of the libraries, but from my first-hand information it seemed to be various rumors and gossip and I never got a clear answer as to what was really the contents.

Q Do you know in fact whether there was any consideration of moving that library by—

A No, I don't know in fact anything.

Q Did you ever set up a meeting to find out what the status of this matter was?

A Not that I recall.

Meetings may have been held but I don't recall setting up one.

* * * *

[3368] A In other words, how are the raises determined?

Q Yes.

A I think I testified how raises are determined already.

Q And you testified that the process first involved some discussions with department chairmen, did you not?

A That's right.

Q And how long has that been the practice?

A Ever since I've been dean.

Q With the exception of the last academic year?

A Yes, with the exception of this past academic year.

MR. KRAMER: By that you mean 1974-75?

THE WITNESS: Right.

Q And you testified did you not that those increases were subject to the approval of the vice president for academic affairs?

A That's right.

Q All right.

MR. KRAMER: Can I have that last question and answer read back, please?

(Record read.)

[3369] Q Has the vice president for academic affairs or any other administration official modified any determinations you made for faculty salary increases?

A They have influence on the modification, there's negotiations.

They also have the last word, but by modified I assumed you mean I say this and they say that and that's the end of the story.

I don't recall that quite happening.

Q Is it then the process that you undertake certain discussions or informal negotiations with members of the administration as to the salaries of your faculty?

A I think I testified earlier that I submit my recommendations to them and either they approve it or they say trim everything by a certain amount and then it comes back to me or trim it to get it under a certain sum or something like that.

And then it comes back to me and then I have to trim it.

I don't recall actually discussing any individual persons—it may happen on salary if an individual is particularly conspicuous, his salary is particularly out of line or the raise being proposed is conspicuously out of line.

But in general that is not the case.

[3370] In general I submit a list of salaries and in the end it is approved after this up and back negotiations as to the total sum.

Q And how long has the department of mathematics and science education been in existence?

A As long as I can remember.

Q For the academic year 1973-1974 were the salary increases for members of that department fixed pursuant to or determined, pardon me, pursuant to discussions between you and the department chairman?

A For that department I don't recall, because it is only three members to the department.

The department chairman generally tells me what she thinks of the individual members of the department.

Q Did you have any discussions as to actual dollar amount increases for members of the department of mathematics and science education with the department chairman?

A Actual dollar amount?

Q Yes.

A Rarely.

Perhaps just the dollar amount of Professor Walker was discussed but the others, no dollar amounts that I can recall.

* * * *

[3373] Q And in 1973, 1974 do you recall what role, if any, Professor Pomerantz played in these discussions relative to salary increases for that academic year?

A '73-'74?

Q Yes.

A There was one period, it may have been in 1973-74 [3374] when he was away in Wisconsin and Spindel then took over administering the department.

I don't recall if it was in that period.

If he were there he would have played his usual role. If he were not there, then Spindel took over that role.

Q Describe his usual role.

A It is as I described it earlier, namely to make recommendations as to the relative merits of the various faculty members and his recommendation as to what the various orders of priority should be for his raises.

Q When department chairmen then come to you to discuss such matters, do you on occasion have proposed salary increases already listed and set forth before you?

A No.

I don't have any lists set forth before me in any event. I never do.

Q Have you ever made some tentative determinations prior to talking with department chairmen?

A Not that I know of.

* * * *

[3376] Q In the last academic year, Dean Komar, were there promotional increments granted to certain faculty members who have been promoted in the last two or three academic years?

A You mean in the present academic year?

Q Yes.

A Yes.

Q And could you tell us whether—how those were fixed?

A The university decided to have a uniform salary agreement—salary arrangement, rather, for its faculty

at least so I was informed, and so as I think was in earlier testimony as was made clear I had no say in the increments, in the ordinary increments.

It went purely by what the rank of the faculty member was.

A few faculty members were promoted and in previous years, at least in the Belfer School, there was no correlation between rank and salary and there was [3377] no such thing as a promotional increment.

I gather that's not true in some of the other schools of the university.

Some of the other schools have a salary scale which we don't have in Belfer School.

As a result the question arose whether the people this year should also get promotional increments if they are promoted, something that has never happened in the past in our school.

We had no policy on this and we had no practice on this matter.

So it was decided that whatever agreement was reached concerning the promotional increments at the other school would be applied to the Belfer School.

The faculty welfare council of Yeshiva University negotiated with vice president Sokal concerning what the level of promotional increment was.

When those negotiations were completed and applied to the Yeshiva College, they were extended to the Belfer School.

Q Were they extended to the Belfer School to cover department chairmen as well as members of the departments?

A That would be impossible.

Department chairmen aren't promoted. They are full [3378] professors.

Q I'm sorry.

What I am referring to—I will come back to that subject.

Let me in fact correct myself and possibly can—you can correct your recollection.

Wasn't Professor Pomerantz promoted?

A Oh, I take it back.

Professor Pomerantz, I forgot was not a full professor. Yes, he was promoted and he received the same promotional increment as he would have normally gotten.

Q In fact, Miriam Grosof is not a full professor either, is she?

A Nor was she promoted.

Q All right.

And she is the department chairman of which department?

A She was the department chairman of the math and science education department.

However, as we have shown in previous testimony that department is being dissolved and becoming a program within the department of curriculum and instruction in the Ferkauf school.

Q You indicated, did you not, that the salary increments, putting aside the promotional increments now, given [3379] this year were uniform and a—on a university-wide basis.

A They were uniform in my school and I was informed by Sokal that they were determined on—by university-wide criteria.

Q Did you have any discussions with vice president Sokal to increase the salary increments given to your full professors from $1400 to $1500?

A It wasn't a discussion.

I simply asked him to.

Q And did he go along with that?

A Yes.

Q So in your school a $1500 increment was given to those faculty members in the rank of full professor, is that correct?

A That's correct.

Q Was that increment given to department chairmen in that rank?

A Yes.

Q And was that same increment given to members—

A To those that were full professors, right.

Q Right.

To members of departments who were not department chairmen were they given the same increment?

A Yes.

[3380] Q Do you know the last time your part-time faculty got a salary increase?

A No.

Q Are—

A They are paid by the—they are not paid—well, there's all sorts of varying arrangements, I believe. It's not—one cannot speak in terms of getting an increase or getting a decrease.

It is a negotiated thing each time.

[3381] Q Who negotiates that?

A The department chairman.

Q With the part-time faculty?

A Of course.

Q Subject to your approval?

A Yes.

Q And subject to the approval of vice president of academic affairs?

A In principal, not in practice.

* * * *

[3384] Q Now, I will ask you the question yet one more time.

How was the welfare committee created at the Belfer School?

I am not now referring under what authorization was it created, but how, by what process, when?

Could you describe it?

A I don't really recall the details.

I imagine it was created at a meeting of the faculty council where they decided that certain members of the—[3385] what is called the faculty committee shall comprise the faculty welfare committee, and—

Q When was that?

A Several years ago.

Q And you are saying at its inception the faculty committee assumed the responsibility of a welfare committee?

A No. I said the faculty council said—if I remember correctly that it was contained—those members of the faculty committee who were elected by their respective departments or something of the sort.

I mean, it was a—some resolution in the faculty council.

I don't remember the precise wording of it.

Q Do you recall what responsibilities that committee was charged with?

A I don't recall the details of it.

Q Do you recall, not in detail but in general?

A In general it had to do with welfare matters as its name implies.

Q Could you tell us what welfare implies?

A It is a very poor view.

It implies anything that faculty members deem is relevant for thier welfare and well being there at the school [3386] Q Would that include their salaries?

A It could.

Q In fact, couldn't it include virtually all the items which might categorize as terms and conditions of their employment?

A That would normally be provided as welfare, I suppose.

* * * *

[3389] Q Dean Komar, did the faculty welfare committee ever prepare specific demands with regard to certain terms and conditions of the employment of the faculty school?

A Not to my knowledge.

Q Did it ever submit any proposals for improvement in faculty salary?

A They have expressed the desire to improve salaries on occasion.

* * * *

[3407] But the government is more complicated.

Q If a principal investor terminates service at Yeshiva University is it not incumbent on the university [3408] and/or the principal investor to notify the granting agency?

A Yes.

Q Are there grants continually upon the participation of a particular principal investor?

A Virtually all.

Q And you indicated that it is the principal investor who hires persons under the grant?

A Yes.

Q And from what source is the total compensation of those persons derived?

A From funds available from the grant.

Q And to the extent that a person is compensated from those funds available under the grant, is it required that his services be solely directed to the furtherance of that grant?

A Yes.

Q So it is true, is it not, that if a person is fully compensated for his services under grant funds, that the university cannot utilize that person for activities unrelated to the grant?

A No, it is not true.

In fact, it is done quite frequently.

Q And that is permissible under the grant?

A Yes.

[3409] Q In what regard?

A He has duties under the grant.

If he offers his services in other ways as a member of the department, as they frequently do, such as to teach a course or to supervise students or to present seminars, the granting agency has no objections, nor does the University.

Q But that would then be volunteered, is that correct?

A Volunteered is not—I don't know how to answer that question, whether it is volunteered or not.

You mean what would happen if he refused?

Q Yes.

A It's never occurred so I wouldn't know what would happen if he refused.

If their services—you see, the cost scheduling in a department is done generally by consensus as we have indicated, therefore, is one—if one is competent in a certain area and he's asked to teach a such and such course, he says of course I will.

I don't recall a case of saying no I don't have to. I am not obliged to.

It never occurred so I wouldn't know what would happen if it did occur.

Q The authorization for his compensation under the grant pertains, does it not, only to activities that would be deducted towards the furtherance of the [3410] grant?

A Doing research and supervising students is within the purview of the research under most grants.

So there is no conflict there.

Q And some students then do take part in the administration or furtherance of some grants?

A Not in the administration of the grant.

They are supported by grant and they perform research under a grant but under the supervision of a grant—is that it?

Q Yes.

A Yes.

Q Now, in your direct testimony—excuse me, just a moment.

While we are in this particular area, a person who is working under a principal investor is being paid out of the funding in the grant?

A Right.

HEARING OFFICER: Who teaches a course or conducts a seminar?

THE WITNESS: Yes.

HEARING OFFICER: Of students at the school, is he compensated in addition to what he received under the grant?

THE WITNESS: Generally no.

MR. KRAMER: May I see here I had a little trouble

* * * *

[3411] MR. KRAMER: The question is clear, I think.

HEARING OFFICER: Yes.

MR. KRAMER: I am unclear about one part of the question.

The assumption is that you have a person in your question, was he working under a grant and teaching a course as part of that work under a grant, is that the—

THE WITNESS: Let me be—can I be helpful?

MR. KRAMER: Yes.

THE WITNESS: I think the best thing is an example.

Professor Bell is supported entirely by a grant for which Professor Rocca is the principal investor.

Professor Bell teaches a course for the physics department.

He does not receive extra compensation for that course.

MR. KRAMER: What about Professor Rocca, he is working under that grant, is he also teaching courses?

[3412] THE WITNESS: He also teaches courses.

MR. KRAMER: And is he paid from other than grant funds for the courses he teaches?

THE WITNESS: Professor Rocca's payment schedule is more complicated.

He gets some university money—some of his money comes directly from the university, some comes from the grant.

But he is not given additional compensation because he teaches.

I mean, it is part of a—teaching is expected on the part of faculty members generally at a university.

Q With regard to a faculty member who teaches two courses and also has a grant, can it generally be said that half of his compensation would be derived from grants and half from the university?

A No.

Q Is there any other kind of formula or rule or provisions that would apply?

A The formula is that research faculty is generally half-time on research and half-time on teaching duties.

That does not mean that the funds come half from research funds and half from university funds.

[3413] Frequently they come a hundred percent from the university and it is the university's subsidation of scientific research.

Occasionally when grant funds are available some small fraction can come from the grant or some large fraction can come from the grant.

It depends on the funds available, the provisions of the grant and what-have-you but for uniform policy in the

school, whether one has a grant or not, the university contributes to the support of research.

* * * *

REDIRECT EXAMINATION

* * * *

[3459] Q Dean Komar, the three faculty members who worked on your grant, did they report their progress to you from time to time?

A Yes.

Q Were you responsible for seeing to it that they actually did the work?

A Yes.

Q Did you have the authority to terminate them from the grant if they didn't do the work?

A I am not sure, because in the grant proposal in this particular case, their names were explicitly included in the budget of the grant proposal when the proposal was made.

The custom varies. Frequently the budget is written requesting a slot but not a name.

Then I would have the authority.

If the explicit name is placed in the budget I [3460] imagine I would have to go back to the government agency.

Q But you don't know that of a fact, do you?

A No.

I have never had the occasion to really inquire.

Q Now, do tenured faculty members work under grants?

A Yes.

Q Do tenured faculty members work as principal investors under grants?

A Yes.

Q And do they also work as faculty associates under grants?

A Yes.

Q Now, dealing with the regular school year which is September to June or thereabouts, that nine-month regular school year—

A Right.

Q —do tenured faculty members work under grants during that period?

A Not generally.

Q We have some tenured faculty members, do we not, who are currently working under grants during that period?

A I believe so. I would have to look it up.

[3461] Q Would you look, please?

A Let me say that generally a tenured faculty member would not—would rarely work one hundred percent on a grant during the school year.

He may work—partially charged to grants during the school year.

Q I didn't mean to imply fully.

A Yes, then it occurs.

Q Do you have tenured faculty members who work partially under a grant during the school year acting as principal investors?

A Yes.

Q And also as faculty associates?

A Yes.

Q Now, you've told us in your direct examination and also on cross that the principal investors have the authority, except in the circumstances that you just recently referred to, to terminate or law off as you said, a faculty member working under him as a faculty associate on a grant, is that right?

A Right.

Q —Assuming that happens during the school year, and the faculty associate who is terminated his tenured—terminating from serving under the grant that is—

A Right.

[3462] Q —what is the effect of that on the faculty members?

A On the faculty member or university?

Q On the faculty associate who is involved.

A The practical effect is that during the school year certain facilities that are available to him such as supplies, secretarial service, Xerox service, computer service would normally be charged to the grant are no longer available to him.

The financial effect is borne by the university but not by him.

Q That's assuming that he is a tenured faculty member?

A Right.

Q Working under a grant?

A Right.

Q Now, what is the effect on the university of the termination we have just referred to?

A The university is obliged to pick up his salary on hard money.

Q So that there would be adverse effect on the university?

A Very definitely.

Q There would also be an adverse effect on the faculty member but it wouldn't be financial?

[3463] A It would be financial during the school years.

Q You told us in your direct examination that grants funds are used to supply summer employment to principal investors and for faculty associates, is that correct?

A Yes.

Q Now, if a faculty associate be tenured or untenured for that matter, is terminated from a grant by the principal investors, does that have an impact on summer employment?

A Yes.

A faculty member can increase his salary by one-third —up to one-third by working in the summer time on grants.

Should he not have a grant or should he be terminated from a grant by the principal investors, he will lose that money.

Q Now—

A That is three months' salary, in other words.

Q You have told us that you have tenured faculty associates working under grants during the regular school year, that nine-month period.

A Right.

Q From time to time have you had non-tenured faculty members working under grants during the school year?

A Yes.

[3464] Q What is the effect on a non-tenured faculty member of the termination of his services on a grant during the course of the regular school year?

A If he has a letter of appointment stating when his appointment will terminate, he will—he can stay on until that letter expires.

If he does not have such a letter of appointment, then he immediately loses his job.

The custom varies.

Q With respect to the summer period, assuming you had a non-tenured faculty member working as a faculty associate on grants during the summer and he was terminated, what is the effect then?

A He immediately goes off the payroll.

Q And this is all under the control, I take it, these termination decisions, of the principal investors?

A Yes.

Q By the way, if a non-tenured faculty member working is a faculty associate during the school year under a grant and is terminated, and assuming that he has a contract for the remainder of the school year, is there any adverse effect upon him, financial or otherwise?

A No.

Upon the university there is.

[3465] Q Would there be the same adverse effect on the non-tenured faculty associate terminated during the school year as there would have been subscribed for the tenured faculty member?

A The same.

Q There is no effect, it would be the same effect but wouldn't be financial?

A It would be the same effect as far as the ansillary benefits is concerned.

Q If he had a contract that did not have a terminal date in it, it would be an immediate financial effect?

A Right.

Q All this would be up to the PI?

A Right.

* * * *

[3466] Q Broadly viewed would the loss of significant grand funds have a financial effect on tenured faculty during the nine-month school year?

A Substantial loss of grant funds would imperil the financial viability of the school.

Q I see.

A As such, even tenured faculty members could be laid off due to financial exergency.

Q And that is provided for, is it not, in the faculty handbook?

A Yes.

Q And more particularly under the section—statement of tenure appointment policy, V, termination of tenured faculty for financial exergency or departmental reorganization?

A That's right.

* * * *

[3469] Q I show you Petitioner's Exhibit 106, a memo under the heading Yeshiva University, to the faculty committee from the department of mathematics and science education, and signed by three faculty members whose names appear thereon.

Is this memorandum accurate?

A No.

Q If it is not accurate, will you tell the hearing officer what the true facts are?

A The memorandum complains about the disapproval —complains and disapproves of the failure on the part of the deans to consult with the department of mathematics and science education or through its chairman in arriving at certain decisions concerning the future of its department.

The department chairman in fact was consulted, discussions were in progress, in fact the department chairman was in the process of having discussions with the department of curriculum and instructions at Ferkauf all during this period, even without my knowledge.

Also, the memo implies that a decision had been made at the time the memo was issued.

No decision had been made and in fact even the—even at the present time one can best view the decision [3470]

made as tentative since it is in a state of flux which has not even been fully determined.

I scheduled just the other day a meeting of the faculty committee to discuss the present status to see if some progress can be made in clarifying the relationship that exists now with this department and the Ferkauf School and the Belfer School.

I can only view the situation still in a state of transition.

Q You told us on cross, my notes show, that the department chairman negotiated the salary for the part-time faculty members and then you said that you approved it.

To the best of your recollection have you—do you generally approve the salaries as negotiated by the department chairman or do you make changes?

A For part-time faculty, I have never made changes.

Q Has the vice president of academic affairs ever made a change?

A No, the approval there is pro forma.

Q And that would go or any department chairman that has negotiated a salary with part-time faculty members during your tenure as dean?

A Yes.

I can't recall ever changing that.

* * * *

RECROSS EXAMINATION

[3477] BY MR. SCHECTMAN:

Q In the last three academic years, have any grants been terminated prematurely?

A You mean by someone leaving or something of that sort?

Q Yes.

A Yes, it could have happened. I don't really recall.

Q And any time ever to the tenured faculty member ever being terminated from the university by reason of financial exergencies?

A Definitely not.

* * * *

[3481] THE WITNESS: Solomon Green, acting dean, Wurzweiler School of Social Work.

HEARING OFFICER: Dean Green, do you swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you?

THE WITNESS: I do.

Whereupon,

SOLOMON H. GREEN,

having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KRAMER:

Q By whom are you employed?

A By Yeshiva University.

[3482] Q And how long have you worked for Yeshiva University?

A Since 1958.

Q And what is your present position with the university?

A I am acting dean.

Q And how long have you held that position, Dean Green?

A Officially from July of the previous year.

Q Now, you said July of the previous.

By that do you mean July what?

A '73—I'm sorry, '74.

Q You say officially since July of '74.

Did you hold that position on an unofficial basis prior to that?

A Well, as an assistant dean I covered the position of dean while Dr. Rosenthal was ill in the hospital from December 1973 until he died in July 1974.

Q Would it be correct that you acted de facto as dean during the period prior to the time the dean was in the hospital and then de jura, as acting dean from the time of his death?

A Yes.

* * * *

[3483] Q Prior to becoming acting dean, what was your title at the school?

A I was the assistant dean for about a year and a half before Dr. Rosenthal became ill.

Q In addition to being an assistant dean, what other title did you hold at the school?

A I carried the rank of full professor.

Q How long were you a full professor?

A I am not sure. Three or four years.

Q Prior to that?

A Associate dean from about—about '65.

[3484] Q Were you associate dean or associate professor?

A I'm sorry, associate professor.

Q And prior to that?

A Prior to that I was an assistant professor from '58 to about '66.

Q Now, are you a member of the faculty, Dean Green?

A Yes.

Q And what area or areas do you teach?

A At the present time I teach a course for field instructor and a doctoral course called Jewish Identity.

Q Have you taught other courses at the school?

A Yes.

* * * *

[3486] A A full-time load at our school is generally two or three courses a semester, ten to twelve students as advisers, five or six or seven agencies to which the faculty members liaison and then a variety of committee responsibilities.

Q Would it be fair to state this is comparable to in its own way to full-time load in other institutions of the university?

A It has been I think designated that way in the previous conversations that the old deans and the academic deans decided on that kind of a point by point system, so that this is recognized as that.

* * * *

[3499] Q Now, Dean Green, looking at the exhibits we have just offered in evidence, particularly Exhibits 135 and 137, I see that there is no divisions on those exhibits of your school into departments, divisions, [3500] sequences or any other administrative or subject area—subdivision.

Do you in fact have such breakdowns within your school and if you do, using the catalog would you explain how those breakdowns function, what they are?

A We don't have any divisions that you might call departments.

What we have is a kind of functional division called sequence, but that is for the purpose of bringing together faculty who teach common courses for a mutual exchange of the process of teaching, the content and to see if there is any kind of commonality between them in educating the same students in the same school.

Q Are these sequences anywhere referred to in the catalog?

A No.

Q Now—

A It's a—it's a coming together of these faculty who are interested in talking together about the courses they teach in common.

Q I want to deal further with this, but turning to the catalog which is Exhibit 136 in evidence and more particularly to the material on pages 29 through 33—no, 34.

I note there are several headings within that [3501] description of courses.

On what bases are those headings chosen?

A They really come out of what I call the council on social work education as to embrace certain content areas.

Q And the basic organization of the school, however, is into sequences, is that correct?

A No.

It—

Q Well, then what is correct?

A All right.

The sequence idea is merely to help facilitate communications between people who teach common courses.

But it has been the practice at our school, except for one set of courses, for any teacher to teach any other course, nobody is locked into any special sequence, but there has been a concentration of some faculty members

who teach what we call practice courses, group work, case work, community organization.

Other than that everybody is up for grabs for any of the other courses.

Q Now, —

A And can be so assigned by discussion or even by their request.

Q Now, do faculty who specialize in the concentrations [3502] you have just noted hold regular meetings?

A We have structured it that way this year.

Q How do those meetings come about?

How are they convened, at least initially?

A One of the—one of the people in this group of courses was designated as a convener who called the first meeting and after that they had their own arrangements as to how and when they might be called together.

* * * *

Q Would you tell us what the contrations are and what the sequences are and how they differ?

A Well, I may have confused you.

[3503] Q Well, that's all right.

A I am using the word sequence to indicate that group of people who teach courses in common, all the teachers who teach group work. I have been calling them as—organized into a sequence for discussion and self-education.

Q All right.

Are they also a concentration?

A When I used the word concentration, I may have intended to say that there are some faculty members with whom the school has in a sense arrived at an agreement that they will concentrate as teachers in a particular sequence, I think that I indicated was a practice sequence.

All right?

Q Yes.

A Are you still confused?

Q Yes.

A Leaving the words out, I would say that—one has to use a word, under—on page 29 you have a thing called practice which goes to the bottom of page 30 for

me, those practice courses are taught by people at the school that are valued highly by the teachers as courses and they concentrate so to speak in teaching these courses and are more generally appointed to teach them [3504] than any other faculty.

Q Now, does that concentration of social work practice broken down into three elements, group work, case work and community organization?

A Yes.

Q All right.

Q Now, you have told us that there is a convener. . .

Is there a convener for group work and a convener for case work and one for community organization?

A Yes.

Q Now, let's put—

A And in this manual or catalog it is called community social work, not community organization. That's the old term.

We don't use that any more, just so that there is no confusion.

Q And these areas of concentration are referred to on the catalog which is employer's Exhibit 136 on page 12, is that correct?

A Yes.

Q Now, putting aside those three areas of concentration which you have told us have a convener, let us turn now to the concept of sequence.

All right.

Would you tell us what sequence is and how that is [3505] organized, if at all, in your school?

A I've used the term sequence to indicate something like this:

All the teachers who teach Jewish Communal Organization will come together and discuss the content, the method of teaching, the way students are learning and any other issues that they want to discuss.

Q Give us some more examples, if you would.

A The teachers who teach growth and behavior on page 32, social work 270, 721, get together because they teach those two couress, discuss the methods of teaching and the contents of teaching, et cetera, as teachers in growth and behavior.

Q Give us another example.

A The social research people, the four or five of them will gather together and talk about what research means in this school, how it is to be organized, how the teachers can in a sense come together so that all the students are exposed to an idea called research through practice.

Q Do these sequences as opposed to the concentrations that we just previously dealt with—I don't want to get mixed up again—

A All right.

Q —do they have conveners?

[3506] A Yes.

Q Now, who decides initially who the convener is to be?

A I did.

Q You appointed them?

A I appoint conveners.

Q And to your knowledge have these conveners held meetings, convened meetings?

A I know that the sequence groups have been meeting.

Q And the concentration groups have been meeting as well, I take it?

A Yes.

Q All right.

Turning to the practice concentration areas, would you tell us the kind of subjects that are dealt with in concentration meetings?

For example, take case work as an example, so that the reader of the record will understand what goes on in these meetings.

A All right.

In social work education the term social case work has many nuances and definitions from psychotherapy to treatment, and what this particular sequence for example is trying to do is trying to discuss social case work, what it is according to the likes of the [3507] teachers in this particular school.

Q What practical application does that have in the school itself?

A Well, it is trying to arrive at how courses in a social case shall be taught with which nuance is to be

stressed when the students bring their case materials to class.

It is an attempt to arrive at a school position on what case work is.

Q Is that—does that affect the quality of the instruction in your school?

A Oh, yes.

Q And is the quality of the instruction in your school —does it have an effect on the number of students who choose to attend your school?

A We believe it does.

Q Would you give us an example of the kind of things that go on in sequence meetings as opposed to the practice concentration meetings that you have just been referring to?

A Well, let me take research which is on page 31.

People with the background of Sue Maizel coming out of the classical research orientation which is in a sense quantitative would be exposed to discussions with people who come out of a practice orientation who [3508] themselves have been social work practitioners and have become research teachers and the attempt to look at each teacher how does one help a social work practitioner research his own practice as against dealing with material outside one's own work, you know, how many clients come to the agency as against how many—how am I helping a client.

Q Does the work that goes on in the sequence meetings affect the quality of instruction at your school?

A We believe it does, yes.

Q And the number of students who choose to attend your school?

A Yes.

Q These conveners, do they receive a reduced load for being conveners?

A No.

Q Do they receive a stipend for being conveners?

A No.

Q And they are not mentioned as conveners, are they, in your catalog?

A No.

• • • •

[3510] Q Dean Green, let us turn now to the governance of the Wurzweiler School.

Would you tell us how the Wurzweiler School is governed, what is the basic structure?

A The basic structure of the school has been to have a dean at its head.

It has a brief history of an assistant or associate [3511] dean, but the—I think the history will show that the internal operation of the school has been heavily governed by faculty decisions.

Q Let's turn to that for a moment.

Is there a constitution or by-laws governing operation of the faculty at the Wurzweiler School?

A There is no written document that has been accepted that way.

Q There is no constitution or no by-laws?

A No.

Q How then does the faculty make its will-felt, through what means does it make its will felt in the governance of the school?

What kind of a structure is there? Are there meetings, how does it work?

A Well, the primary—the primary way that the faculty makes its desires and will felt is at faculty meetings.

This is—the frequency of these varied from once a week to twice a month, that is every other week, to an experiment we are trying this year to meet once a month, but it is at these meetings that decisions are arrived at and acted upon.

Q Now, Dean Green, are part-time faculty members eligible to participate in faculty meetings—I will [3512] withdraw that question since you don't have any formal governance document.

Have part-time faculty members participated in faculty meetings?

A Irregularly overtime.

Q But they have participated?

A Some have.

Q They haven't been told or asked to leave?

A Oh, no, no.

Q Are they required to participate?

A No.

Q Now, would you tell us as best you can the kind of questions and matters that are dealt with at faculty meetings?

I am not asking you for every matter that has been dealt with at every meeting but would you please give us a broad sampling—

A Yes.

Q If you can.

A Yes.

Faculty meetings generally are helpfully concerned about the educational program of the school, the curriculum.

Q What does that mean?

A What courses should or shouldn't be taught.

[3513] What sequence—in other words, what order they may be taught in.

Whether they should be for one year or for six months.

They have discussed—

Q Excuse me a minute.

MR. KRAMER: Could we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Read back the witness' last response and let's have him continue his answer.

(Record read.)

A —they have also discussed the standing of the students, decisions about whether students who—students will graduate or not are decided by the faculty.

They have also discussed the financial state of the university and its relationship to the school's development.

We made a decision, for example, that has been a very serious one in the sense of enlarging our school by increasing the number of people we would take in. That was a faculty decision.

They advised us and the university that they felt that a certain sum of money might be more appropriate [3514] to be the tuition increase rather than the amount that I had thought would be—things of that nature—and of course questions of governance come up from time to time.

Q Now, you have told us, faculty meetings concern themselves with curriculums and course offerings, is that correct?

A Yes.

Q What would be offered and when, is that correct?

A Yes, yes.

Q Does that have an effect on the number of students that are attracted to your school?

A I believe it does.

Q All right.

Now, who has the final decision making authority about whether these courses will or won't be offered and what the sequence of the courses will be and the like?

A It's generally been the faculty.

Q Have you ever overruled a decision of the faculty in this regard?

A No.

Q To the best of your knowledge did your predecessor ever overrule a decision of faculty in this regard?

A No.

[3515] In fact, he engaged them to arrive at the decision.

Q Now, you have told us that the faculty meetings concern themselves with the standing of students.

A Yes.

Q What does that mean in lay terms?

A Well, it is most graphic when you discuss the students in trouble and it is the faculty that makes the decision whether a student gets notice which means that he is given an eight-week period to shape up or ship out and it is also the faculty that votes as to whether the student shall continue or not.

This is not made by any one person.

Q Now, does the continuance of a student in the school or the discontinuance or termination of the student

in the school have a financial impact, a money impact on the university?

A Oh, sure.

Q Tell us about that.

A Well, if a student—for example, we recently had such a case and if the student had been asked to leave at the end of this semester which just ended on the 31st of January, his tuition would not have been our income.

Q And his spot would have been empty?

A We would have lost his income?

[3516] Q Now, speaking of income, income from students comes essentially from tuition, does it not?

A Yes.

Q And you have made reference a few minutes ago to faculty having a role with respect to a tuition increase.

Could you tell us the facts and circumstances surrounding that when it took place and what happened?

A I think it was sometime last winter, around '73, in December, roughly, when we were looking at the total picture of the university's financial situation and it became evident that a recommendation was in order for some way to get money and since we had already increased the number of students on a faculty vote, I put it to them as seeking there advice as to what the tuition increase ought to be.

I had felt that $500 a semester— I'm sorry, a year, would not be too exhorbitant or too difficult for anyone, but the faculty as a group felt that it ought to be about 300 and then when discussions were held with university officials, like Dr. Sokal or the financial—student financial officer, Mr. Nussbaum, they took the—they felt that would be okay, and they accepted the advice.

Q As acting dean did you feel that you had the [3517] authority to overrule the faculty's position that $300 should be the increase or that you were bound by that position once it was taken?

A There's been—I would say the tradition would make me bound by it, but one could say that the dean's position could always allow him to possibly fight it.

Q When you say tradition would indicate you were bound by it, what do you mean by that?

A Well, in all—most of these areas that I have been trying to explain, the faculty has very major role in making decisions and I would say that by and large most of the deans that I—as far as I could tell from experience with them, Dr. Tyker and Dr. Rosenthal felt that a vote by the faculty had the strong—strong impact on any decisions that he would make.

Q Now, you have told us just a moment ago that the faculty—I am not using your word now, decided to increase—decide was not your word—decided to increase the number of students or decided on an increase.

Would you tell us about that, when did that take place and what were the facts and circumstances surrounding that?

A Well, I think it was about two years ago Dr. Rosenthal, my predecessor who is deceased, submitted [3518] to the faculty a list of possible ways that money might be—income might be generated, and I think the—one of them was question of raising the number of students we admit in the entering class each year, I think the figure at that time was 26 more students than we had ever taken in before, and that was the decision of the faculty, that we do take in 26 more in every entering class thereafter, and that was acted upon.

Q Is there a faculty commission committee or commission on admissions at your school?

A Yes.

Q Can a student be admitted to your school without the approval of the faculty committee on admissions?

A Generally not.

Q By the way, what is the tuition for a master's degree graduate student in your school?

A $2,300 a year.

Q Now, you also told us that the faculty meetings have a role in making proposals re governance, is that correct?

A Yes, they do.

Q Is there currently pending a set of guidelines that have to deal with governance?

A Yes.

[3519] Last year the faculty on whatever one was agreed was merely a consensus approval did receive from a personnel committee a set of guidelines which they only in principle had accepted as something to be a working instrument to discuss this coming year, this year.

Q I am going to return to those guidelines later in your testimony, but is it the faculty meeting that has the ultimate determination as to whether those guidelines are promulgated, is that correct?

A Yes.

Q Now, in addition to the faculty meeting apparatus that you have just described, is there also a faculty cabinet?

A Yes.

Q Would you tell us about that, what is it and how it functions?

A A number of years ago the faculty was seeking for some mechanism by which issues could be more focused, better prepared for presentation to the faculty, that might handle any emergency decisions that come up between faculty meetings, even help organize faculty committees who might work up some issues and be presented to the faculty for action.

This resulted in a structure of about six people, three of them were elected from the faculty, the dean and [3520] the assistant dean were automatically members and the dean was allowed to appoint a third member so that six people make up the cabinet, and it functioned for awhile, and this year when we resumed our school, the faculty opened this up for discussion as to whether that was the best way to govern between meetings and to help the faculty focus on issues and for a short time, because they didn't vote to have it again, there was no cabinet, and it was only maybe two months ago which the faculty voted to reinstitute the cabinets under the old arrangement and its been functioning now for about three or four meetings.

Q What were the kind of issues that were dealt with during the last three or four meetings?

Just give us for a feel what goes on there.

A In the cabinet?

Q Yes.

A Well, the last issue we discussed was what plans should we introduce to the faculty for the reorganization of the school to handle issues of overload as some people see it.

We have talked about waiving credits for some—courses for some extended program students.

I have introduced a new idea of—that I would like to see the school take on a block placement program [3521] which they discussed briefly.

Those are three that come to mind immediately.

Q Let's turn for a moment to this question of waiving credits for extended—

A Extended program students.

Q —extended program students.

What is that all about, Dean Green?

A Well, we have a practice, people who are eligible to enter school, we allow about ten or twelve people to exercise an option of stretching their education out over a five-year period instead of a two-year period that the full-time student has.

We call these people extended program students because it is extended.

Generally, a woman whose children have grown, and they're getting back into the academic swing.

This means that some of them might have entered school in 1971, September '71, approximately—

I am thinking of a case yesterday—in the meantime we have had at least two switches in how the curriculum was organized.

In 1972 let us say, I think that was the year, we changed the whole 4th semester into a whole different form and we tried it out for two years and I think around the beginning of '74, I am not sure of my timing — [3522] approximately, we then went back to something closer to the old system.

These people get caught in the middle.

In other words, they take some courses—they took some courses which at that time were one-semester courses because of the new arrangement, and now as they get closer to finishing up, they are two-semester courses, and they—two or three of them petitioned in this instance, they took that course when it was only one semester course and took other courses in its place—that might fill in, they wanted to be allowed not to take a second half that had been reintroduced, of an original course like Jewish Social Philosophy.

So this cabinet and—they then discussed the situation and made a decision on the basis of the previous precedent to allow them to waive that course, or allow us to waive the course.

O A waiver of a course or a waiver of credit would have a financial impact, would it not, on the university?

A Especially with these people because they pay by the course.

So every course is $150 for them. They don't take it, we don't get the $150.

Q You told us there is an extended program at your school. Why was it necessary to have such a program?

[3523] A Well, it was really a service to the community; there are some good people who want to come back to school, and this attracted those people who wanted to go back.

A Does the existence of such a program have a financial impact on the university?

A Oh, yes.

Q Tell us how that comes about, Dean.

A Well, first of all it is another recruiting device which guarantees us every year of at least 12 solid students who will go into the full-time program when they will pay the full $2,300 tuition.

I don't know whether that is an answer to you but basically in addition to that there is a community service aspect of attracting some solid people who want to come back to school.

Q Now, dean Green, you have told us there were two switches in the curriculum for this extended program.

A Yes.

Q Who authorized those switches?

A Well, basically the faculty did.

The first switch that took the four-year—the fourth semester program that you have listed here in the 74-76 program, and changed it in such a way that you—you

know, it just doesn't compare to the present, [3524] a student faculty committee came up with recommendations, it was brought to the faculty, the faculty voted to try it that way and that's the way it was.

Q Could the extended program exist at all without faculty approval?

A No.

Q Was it in fact approved by the faculty?

A Oh, yes.

Q You told us about a block program—

A Some years ago.

Q Referring to the cabinet you mentioned as an example, a block program, will you tell us what a block program is?

A Well—

Q Or would be?

A Let me start this way:

The present program is called concurrent which means that concurrently they spend two days in class, three days working in the social agencies.

The block placement is a different form in which the student would come to school for about fifteen weeks, June, July and August, and concentrate all of his academic material at that time and then the winter and spring would then be spent in social agencies on a full—almost full-time basis with faculty visits and certain [3525] academic assignments that come out of their practice.

That's block plan.

Q In your view would this be more attractive to students?

A We think that it will be very attractive to a certain group of students in the community.

Q Would it provide a greater utilization of your facilities?

A Oh, yes, because—yes.

In the summertime the building is empty except for some courses given by Ferkauf.

We offer no summer programs at this time at all so that it would make productive use of our place.

Q And would it affect the assignment of faculty, both part- and full-time?

A It could affect the present group of faculty, yes.

Q Dean Green, have you directed that this program be instituted?

A No, no.

Q Have you ordered it?

A No.

Q Have you the authority to order it?

A I have been tempted to try. I am not sure.

My own way of living within the school's way of working would be that once this plan is truly tested [3526] in terms of discussions with the social agency community.

And people who have done this at Smith College where two examples of this are, that this ought to be and will have to be in a sense submitted to faculty, if not for final approval at least to—for some advice and consent because it eventually should have some impact on the total operation of the school.

Q At any time during your presence at this school, both as a dean and as a faculty member and before being a dean, has any program of this type, any major program change of this type been implemented without the approval of the faculty?

A No.

In fact, this idea was presented in the—at least twice sometime between '59 and '70 and it was voted down by the faculty.

Q And not implemented?

A And never implemented.

Q Now, there have been discussions of this block program this year, as you testified?

A Yes.

Q Have you received reaction from faculty?

A Well, I happened to receive—testing the idea by circulating rough outlines of what this thing might mean in terms of an educational program and everybody [3527] getting some responses from the different faculty members as to its value to the school.

I was invited to say a few words about it to a group of field instructors who had come to the school to discuss

our mutual relationship as a school and agency, and the day after I had mentioned this to the field instructor I received two memoranda.

One was from a faculty member who very tersely wrote how could you speak about this plan having faculty support when it wasn't discussed by faculty yet, and it had been discussed by the cabinet and nobody had disapproved of it in the cabinet and then I received a correction to the cabinet minutes—which elaborated on the faculty governance issue.

Q When you say elaborated on it—

A Well, the minutes of the cabinet just—I don't recall the wording—but said something about it had been discussed and I don't know whether it says anything about approval or positive response but it was discussed.

This correction to those minutes indicated a very elaborate statement by one colleague who wanted to make sure that it had not been introduced to faculty yet, that it had—et cetera.

Q Now, this addition to the faculty meetings themselves and cabinet meetings you have discussed, are [3528] there also faculty committees, both standing and ad hoc?

A Yes.

There's—they have the admissions committee which is made up of myself and a number of faculty and the admissions person.

Another regular committee is a doctoral committee, functioning committee that is standing is field instruction committee, and the kind of standing committee is this community social work committee.

Those are some I can recall without a list.

Q Now, in addition to these standing committees in the last year have you had ad hoc committees?

A Yes.

Q Tell us about that, if you would.

A Well, I consider an ad hoc committee a committee that discussed extended program student problems because as I noted before they keep coming up every year no matter how we try to anticipate them, on the status of students, vis-a-vis courses.

We also have the personnel committee that prepared the guidelines, existed to do the job and then went out of business.

There was a committee to talk about a course called the psycho-social pathology course.

Once it did its work it went out of business.

[3529] Well, those are some that I can recall ad hoc.

Q Would you tell us who is the chairman of the admissions committee?

A Dr. Esther Lentschner.

Q Does the admissions committee have any clerical employees assigned to it?

A Yes, there is a secretary you might call her. She spends all—practically all of her time—all her working time with Mrs. Lentschner.

Q Let's focus on this admissions committee for a moment.

The chairman is Mrs. Lentschner?

A Yes.

Q Who else is on that committee?

A It's been a tradition for the dean to be on and then it's a kind of rotating—Dr. Lentschner has kept a list and has tried to help us circulate so that every year we get new members so that all of the faculty will have served on this committee at one time or another.

Q Now, to whom does the clerical employee assigned to the committee report?

A She works with Dr. Lentschner.

Q Have you had an opportunity over your years at the school to observe the relationship between Dr. Lentscher and the clerical employees from time to time?

[3530] A Yes.

I mean it is right on our floor and by relationship you mean—

Q Inter-personal relationship, on the job, of course.

A Yes, well, Dr. Lentschner instructs the secretary when certain letters have to go out, certain—what certain responses should be to inquiries or acceptances or refusals, desire for more information, et cetera, so they are constantly engaged.

Often Dr. Lentschner sits in that office and gets things done with Mrs. Ruderman.

Q That is the name of a clerical, is it not?

A Yes, Mrs. Ruderman is the secretary.

Q Does Dr. Lentschner tell Mrs. Ruderman what to do?

A Yes.

Q Tell her to do the job over again?

A Yes.

Q Reprimand her for doing it poorly if she does it poorly?

A Yes, there have been times like that.

Q There have been—

A I know that Mrs. Ruderman if she gets a brusque critique feels a little upset about it, and you see it.

[3531] Q Is there any question in your mind that Dr. Lentschner has the authority to do that?

A No.

Q If a secretary or clerical employee were incompetent to the point of not getting the job done properly consistently, would Mrs. Ruderman have the authority to recommend her termination?

A You mean Mrs. Lentschner?

Q Dr. Lentschner.

A I think she would have the authority to have her moved out of the admissions as far as removal of the job, that would be a different issue.

Q It is correct that she could effect her transfer, is that correct?

A Yes, I believe she would.

Q Or reassignment to another job?

A Right.

• • • •

[3532] Q Before proceeding to that, do you have any idea how much of Mrs. Lentschner's time or Dr. Lentschner's time is spent supervising the clerical you have just described to us?

A Well, her primary responsibility is to be the person in charge of admissions to the school of social work, so that from the very beginning of the year to the end of the academic year they are very closely tied together.

There are some lighter times and some heavier times.

The fall might not be as involved, it would just be a matter of seeing that Mrs. Ruderman gets catalogs out, responds to applications, sends letters out to answer inquiries, towards the middle of the fall she would then be engaging Mrs. Ruderman's duties in preparing statistics she needs and inpreparing folders [3533] for the admissions committee, gathering comparative data from one year to the next, et cetera.

They work very closely. They both have keys to each other's doors, so to speak.

Q Is there any way that you can tell us whether or not Mrs. Lentschner spends 50 percent or more of her time or less of her time supervising Mrs. Ruderman?

A It's hard to put a number to it but it's heavy.

Q Are there any records that would reflect that that you know of?

A I have none, no.

MR. KRAMER: We will state that we have made a search of our university records in preparation for this case and have found none.

• • • •

Q Now, does Dr. Lentschner have a reduced teaching load as a result of her work as director of admissions?

A Yes.

[3534] Q Would you tell us the—what that is, if you know?

A Well, she might be giving one course in the spring semester rather than two and she would teach two in the fall rather than three.

So there is a lightening of the load.

Q Now, let's turn for a moment to field instruction. Would you tell us what field instruction is?

A Well, it's a conception of education which draws or grows out of a conviction that people learn from the doing and in the doing make better connection to conceptual or abstract material than if they just study so that students have placed in social agencies at the very beginning of the school year for three days a week for field instruction in a social agency.

Q When they are placed in a social agency for field instruction are they guided by a field instructor?

A Yes.

Q Are field instructors employees of the agency or to they draw their sustenance from the university?

A In our school they are employees of their social agencies.

Q Does your school give these field instructors any payment for acting as field instructors?

A There is no money given to any field instructor.

[3535] Q Do they get free courses?

A No.

* * * *

[3537] Q Now. Dean Green, in addition to the field instructors who come from the agencies and work with the students at their particular agencies, are faculty assigned to the field instruction program?

A Not as field instructors.

Q No.

In some other fashion.

A They are related to the field instruction as liaison representing the university.

When they go out and check and talk about the student's progress in the agencies.

Q They sort of bridge between the school and the agencies?

A Yes.

Q Now, you told us there is a field instruction committee.

Would you tell us what that is made up—who that committee is made up of?

[3538] A To the best of my knowledge it is made up of faculty and occasionally students are invited to sit in and make suggestions and recommendations as to how field instructors can be used or changed and so on.

Q Is it headed by anyone?

A We have a person called a field instruction coordinator who is the chairman of this committee.

Q And his name is found on Employer's Exhibit 135, is it not?

A Yes.

Mr.—Prof. Samuel Goldstein, coordinator field instruction.

Q Would you tell us what that committee does, what is the function of this field instruction committee?

A Well, it really helps the coordinator to monitor how field instruction is going in general, makes plans for educational conferences between the school and the field instructors, engages in what agencies we ought to go looking for or respond to because agencies sometimes don't stay with us after three or four years and we wanted to replace them with other agencies and makes recommendations to the school as to whether we ought to get into areas like corrections, department of social services, things of that type, we don't really get too involved in.

[3539] Q Would it be fair to state that the field instruction committee at the university can enforce its views without any further approval or must further approval be obtained from the faculty?

A No, generally what it does is it can organize conferences if it wishes but I think it would have to bring faculty whether for a vote or at least for discussion if it recommended certain agencies ought to be dropped or if certain agencies didn't seem appropriate for our kind of school.

Q Is the dropping of an agency an important decision—

A Oh, yes.

Q Why?

A Well, first of all we have to decide that we are doing it for the good of the school, the student, but there are public relations impact in how our university will be seen by the professional community, whether we work according to principle.

It is how we do it that becomes important to our reputation as a school.

Q Is ability to attract the cooperation from first rate agencies in the community affect your ability to draw good students to the school?

A Well, yes, because these agencies are people who often recommend who they thing are their good people

[3540] to come to work as work study students or just in general talk up the school.

Q And has it an effect on the number of applications you receive for admissions?

A I would say yes.

Q Does the school have a relationship with the Queens Educational Center?

A Oh, yes.

Q How did that relationship come to pass and when?

A Some years ago—really no, the exact date—Adelphi University School of Social Work started a relationship with the Long Island Jewish Hospital, Hillside Queens General Complext.

They approached us after one or two years, I think, our school, to become partners in this conception that they called an educational center.

It was proposed by Prof. Goldenberg, I think, discussed a number of times.

We had some so-called evidence by two of the leaders of this center came up to the faculty, to tell what it was and so on and then we voted a two-year or three-year experimental relationship which basically meant sending students—a minimum of ten students each year to be placed in Hillside Queens General, Creedmore, I think three or four, five agencies.

[3541] Q This required approval of the faculty?

A It was given, yes.

The faculty voted on it.

Q And did the agencies seek out the faculty's approval?

A Yes.

Q It didn't come to Dr. Sokal, did they?

A No.

Q Dr. Fischman?

A No.

Q The president of the institution?

A No.

Q It came to the faculty?

A Yes.

• • • •

[3542] Q Let's turn to the doctoral committee.

Would you tell us the function of that committee?

A That is made up of all people who teach in a doctoral program and one or two people who are—have their doctorates but may not be teaching.

Its function is to conduct a business of the doctoral program.

The committee decides on who shall be admitted.

It receives recommendations for who shall go on to the second year of study.

It passes on proposals.

That is, proposals for dissertations, and accepts them or sends them back for further work.

It votes as to—on the recommendation as to whether a person is ready to receive his doctor of social work degree.

[3543] Q Are some social work schools harder and more difficult to complete a doctoral program in than others?

A So students say.

Q Does this have an effect on the number of doctoral students that apply to the schools and their quality?

A I couldn't say.

Q Now, who is the chairman of the doctoral committee?

A Dr. Lloyd Setlees.

Q By the way, the management of the doctoral program have an effect on the finances in the institution?

A Oh, sure.

Q Tell us about that, please.

A Well, first of all the tuition is a little higher. I think it is $2,700 a year, and I think to meet some of the economic problems as well as to encourage recruitment, to—so the school might never fall below at least an entering class of ten, the doctoral committee voted and began to take in about seven or eight part-time doctoral students, people who qualified for admission, but who were allowed to start by taking one or two courses.

That is very helpful in terms of recruiting, enhancing the reputation of the school.

Q That was their determination?
[3544] A Of the doctoral committee, yes.
Q Was it also their determination to work with about ten a year?
A Oh, yes.
The doctoral committee has also voted and reaffirmed many times what they call the residency period is to be and it is a set of four courses which no one can take except when they are full-time students and that is a decision of the committee.
Q Did you have—were you involved in that decision?
A Well, I was a member of the doctoral committee and I still am as a teacher in that program.
Q When was that decision made?
A When the doctoral program was begun, and then a —two or three years ago, I am not sure, the doctoral committee began to reassess, are we doing the right thing educationally and their conclusion was that we ought to keep this fixed for one-year program, this four semester —I'm sorry, four courses, one-year residency program just the way it is.
It seems to be doing the job and—that was it.
Q That is within their authority to make their decision?
A It apparently has been yes. I know of no reason why it should be taken away.
[3545] Q Do you know a Dr. Setleis?
A Lloyd Setleis, yes, a member of our faculty.
Q Is he chairman of the faculty committee, doctoral committee?
A He is referred to as that.
Q Does the doctoral committee have a secretary?
A This year we received a grant which gave us money for a secretary hired by the hour which does work for Dr. Setleis primarily although she is sometimes called on for a little bit of other help.
Q Does Dr. Setleis have the authority to tell this secretary what to do?
A Yes.
Q Pull her off one task and put her on another?
A Yes.

Q To establish work priorities for her?
A Yes.
Q To reprimand her when she doesn't do a good job?
A I assume he would feel comfortable to do that.
Q To have her terminated or transferred should she not prove satisfactory?
A Yes.
He could recommend that she ought not to be working with him and then being that she was taken on primarily for that reason that would mean her termination.
[3546] Q He would have the authority to do that?
A Yes.
Q Who would that recommendation be made to?
A To the dean.
Q To you?
A Yes.
Q Do you know how much time Prof. Setleis spends telling the secretary what to do?
A Not exactly.
Q Reprimanding her?
A No.
Q Moving her from one task to another?
A I have no time picture—no information.
Q Establishing work priorities?
A I'm sorry.
Q Does the university maintain any records that would reflect that kind of information?
A No, not of his direct work, one way or the other with her.
MR. KRAMER: I will note we have searched the files and found no such information. There is none.
Q Does Dr. Setleis receive a reduced teaching load to compensate or—as an equivalent for his work in the doctoral program?
A I have tried to give him one but he doesn't take it.
[3547] Q In other words, he would be—he is entitled to a reduced work load?
A Yes, yes.
Q Now, is there a community organization committee?
A As I pointed out earlier we have community social work committee.

We don't use community organization any more.

Q All right.

Would you tell us who makes up that committee and what its function is?

A Well, at the present time that committee is made up of the two faculty members who teach the practice courses in the community social work. That is Dr. Levy and Dr. Levitz.

And there are—besides myself at least two other members of the faculty invited to discuss material pertaining to the practice of community social work and how it is taught at a school.

Q What role, if any, did the Federation of Jewish Philanthropist play in connection with the establishment of this committee?

A They didn't play any direct role, but four years ago they invited the school to enter into a contractual relationship where they would supply something like $40,000 a year for us to open up the community social [3548] work program, and they financed and are presently still financing the program and the community social work committee was organized to work with the federation committee that is in a sense monitoring how that money is—not how—but how the educational program proceeds towards an objective that was mutually agreed upon at the time that the contract was written.

Q Is there an interface between your faculty committee and the federation committee?

A Yes.

Q Would—give us a feel for what that interface is all about.

A Well, the federation has a committee called the Weiner Committee—Weiner Educational Center Committee which provides the funds for this program and they have requested in the early days to have a connection with the faculty and the students in this program in order to in a sense keep an eye on whether this program is meeting the objective of training federation executive people for Jewish community federation work and we have up to this fall—we have generally met with them at least once a month to discuss the program, to discuss our—to criticize

each other in how we are thinking or not helping one another towards that objective.

Q Is the maintenance of a satisfactory relationship [3549] with the federation committee have an effect on the continuance of funding of the program?

A Oh, yes, extremely valuable and important.

Q And faculty members, I take it, full-time faculty members who are on the committee have a role in maintaining that relationship?

A Yes.

Q Now, are you familiar with the Atran lecture series?

A We get a subsidy from the foundation.

Q And is this, the Atran Foundation provides a subsidy?

A Yes.

Q Is there an Atran lecture committee at your school?

A Yes.

Q Who sits on that committee?

A Prof. Feiner and one of the students I can recall, Miss Osserbell.

There is a small committee of students and faculty people who discuss who should be invited to speak.

Q One faculty member?

A I believe it is only one.

Q The budget for this committee at this year—

A It is going to run about $5,000.

Q And that $5,000 is used to hire lecturers, is that [3550] correct?

A Yes.

Q And Dr. Atran is in charge of that function, is he not?

A No.

Q Dr.—

A Prof. Feiner is the committee—is the faculty member on the committee representing the faculty interests in topics, et cetera.

Q Are the recommendations of this committee as to who should be invited to speak and paid for doing so generally accepted?

A Yes.

Q Let's turn to hiring, Dean Green.

Would you tell us the procedure or method by which new faculty members are hired at your school?

I am talking about full-time now, not part-time.

A I think at the present time one can describe it—

Q I am going to withdraw that question for a minute.

What I would like you to tell us is in actual practice—

A How it works?

Q —how it works as opposed to some pay procedure that may or may not exist; what is the reality of the situation?

[3551] A Once it is ascertained from discussion both with the faculty as to what we need and then some clarification with the university about the budget available, you know, for looking for people, whether it is two or three or whatever, a search is begun, a broadcast is made for people to apply.

The practice has been for applicants to come to the phone, if he shows any interest, he can invite people to come up for an inquiry for kind of a look at one another, and then if anybody looks good, an ad hoc committee has been generally established under the title of faculty selection and interview time is set up for any applicant that looks good to meet with this committee and then a recommendation of the committee is made to the dean as to whether this person or that person is hirable, preferable and so on and generally the dean has acted on that recommendation.

I know I have when I had to do it.

Q Who determines the salary to be paid for the new hire, how is that done?

A That is generally between the dean and the person to be hired.

Q And who determines the range to be afforded the new hire?

A That is similarly between the dean and the applicant.

[3552] Q The selection however, of a particular person is made on the basis of a recommendation from the ad hoc committee, isn't that so?

A Yes.

Q And that is generally accepted?

A Oh, yes.

I don't know of any—there is—in the minutes of the faculty there is a stipulation of faculty preference which has guided all the deans that I know of here that nobody ought to be hired for our faculty or for any academic rank under an assistant professor, and every dean that I know of has honored that faculty preference.

Q Now, last year, was it your desire to hire a particular faculty member and were you able to effectuate that desire?

A It was.

Q Would you tell us about that?

A Yes.

We had a very good lady in mind for our faculty and we were moving ahead on the basis of the faculty selection committee, an ad hoc committee that had expressed strong support of her candidacy.

We wanted to establish a female committee, that is, a committee of all the women on the faculty to [3553] have lunch with her so as to give her a chance to meet them on their own terms so to speak as woman to woman. That was a preference of some faculty members, and when I was setting that up the faculty voted a moratorium, in other words, they bound one another not to cooperate in this luncheon meeting that I had thought I was setting up, in order to press me to press the university to clarify the status of the three grant people, the faculty had made a kind of faculty decision that should there be an opening on the faculty, grant people should have first preference.

At that moment in time three grants were running out and talking about hiring another person without clarifying whether these three people would be kept on, so infuriated the faculty so to speak that they voted that they would not participate in any such welcoming and so this luncheon never came off and eventually this woman took a position at the University of Virginia or the Commonwealth—well, whatever, it used to be called the University of Virginia.

Q Who filled that vacancy?
A I am trying to remember if anyone did.
I can't remember.
May I look at this catalog?
Q By all means.
[3554] A To see if any name rings a bell?
Q Sure.
A I would like to answer that if I can.
Let me just say this:
No one took the place. The only new person—I'm sorry, yes, yes, Dr. Chartock, listed in the catalog, he was hired.
I can't say whether it was in place of, but he was hired.
He came on last year.
Q And was he just—was he screened by a faculty selection committee?
A Oh, yes.
Q Was a recommendation made?
A Yes.
Q And you accepted it?
A Yes.
He had been seen previously by the late dean Rosenthal who asked me when he became ill to establish such a committee and then this committee met and recommended that he be hired.
HEARING OFFICER: Was Dr. Chartock one of the people on grant?
THE WITNESS: No.
The three people on grant were placed on the [3555] university payroll.
HEARING OFFICER: Prior to—
THE WITNESS: Prior to his hiring, that determination was made.
Q Now, you have been at the school how long?
A Since August 1958.
Q Was any dean during your sojourn at the school attempted simply by the exercise of his authority to override a faculty negative vote of the type you have just described?
A I don't recall any. I really don't recall any.

Q What would the practical consequences of that, Dean Green, be?
A If he would do that?
Q Yes, in the real world.
MR. SCHECTMAN: If it has never occurred, I will object to this question.
HEARING OFFICER: Sustained.
MR. KRAMER: I would make an offer of proof here.
HEARING OFFICER: What is your offer of proof?
MR. KRAMER: If the witness were permitted to answer it would be that the situation is such at the school that were a dean to attempt to override by use of personal authority the negative vote of the faculty in a matter such as this, there would be a serious [3556] question whether the dean would be able to continue as dean.
HEARING OFFICER: On what basis do you have—
MR. KRAMER: I would be delighted to have the witness give you his answer.
He has much more basis than I have but I had my question held objectionable and I have not been able to have the witness answer.
This witness has been there for 12 years. The realities of academic life are what they are. We are just trying to get them established in this record.
If we can't get them established in this record, then we simply will make an offer of proof.
HEARING OFFICER: I will reconsider my sustaining of the objection provided you can set a basis for an answer to the question.

* * * *

[3557] Q Dean Green, have there been other negative votes of the faculty during your sojourn as a faculty member and dean and assistant dean at the school?
A Well, there have been negative actions or reactions.
Q And negative votes?
A Yes.
Q On particular issues?
A Yes.
I am trying to recall—I am trying to remember at the moment and I haven't—I know of no negative consequences.
I can't recall—

[3558] Q Have there been other situations while you have been a faculty member, assistant dean and dean where the faculty's view and the dean's view on a particular issue were just opposed?

A Just opposed?

Q In opposition.

A Well, one thing comes to my mind and that is what I meant by negative reaction.

The appointment of a chairman to the original—the first doctoral committee.

Q Tell us about that.

A And also one, now that I say it, I know of the first committee that was going to work with the federation people.

There was such objection to—in the first case to the person who was then the so-called chairman, that a number of people withdrew from participation on that doctoral committee.

Despite the invitation of the dean for them to participate until Dr. Setleis was appointed a couple of years later, but there was a lot of flack as to why he insisted on keeping Mr. X or Dr. X on that job.

HEARING OFFICER: Was there a uniform faculty meeting at which the entire faculty reacted or is this just the personal feelings of a number of members of the [3559] faculty?

THE WITNESS: I would say it was the latter because—

HEARING OFFICER: Just the personal feelings?

THE WITNESS: Yes.

It was not a matter really that the faculty as a whole—

HEARING OFFICER: On the second point you mentioned?

THE WITNESS: I would have to say it was similar that people felt that it was unprofessional, degrading, et cetera, and they withdrew from any participation.

HEARING OFFICER: Okay.

A And then told the dean that he couldn't depend on them.

It never came up by either party in the faculty as a whole.

Q Dean Green—

THE WITNESS: As I can recall.

Q —is it a fact that the deans of your school during the time that you have been both dean, acting dean, assistant dean and faculty member have not acted contrary to the wishes of the faculty?

A I think on the significant issues I can't think of a one time that there was any—just ignoring of the faculty's wishes.

[3560] Q Is there a reason for that?

A I think the conception of a group of social work educators out of their own tradition, democracies and participation and the tradition of the school which grew up out of a faculty of four or five, that made the decision or opinions of faculty more valid than perhaps otherwise have been.

• • • •

[3562] Q You told us about the hiring of full-time faculty, Dean Green.

Would you now describe how the part-time faculty are hired?

A The people listed on the evidence or exhibit?

Q Yes, sir, people who are in the status of those listed in the second column of Employer's Exhibit 135 under the heading part-time.

A Well, when we discover that we need someone, it can be either I reach out as the acting dean or as faculty knows about the operation, they might recommend people to contact and will—we will either call them or write to them and try to close the arrangement.

Q Is there an ad hoc committee at the—in each instance the way there is for full-time faculty?

A No, no.

Q Now, let's turn to the question of promotion of full-time faculty.

How is that decision made?

What is the way—what is the actual practice [3563] in the school with respect to promotion of full-time faculty?

A I think the actual practice at this moment is that the—it's been I think something between the dean and the faculty person that puts in a request.

When they get through with the idea as to whether that is a legitimate request or not, as per some regulations that I—I remember being part of the group that the faculty once organized a statement on promotions from an associate—assistant to an associate, associate to full, and in that particular—if the person and the dean agree that that's been satisfied, then the recommendation has been sent up to the president for—for his approval.

Q That is not a subject that is voted on, is it, by the faculty?

A Not at this time, no.

Q And—

A It is part of the proposed procedure.

Q At the present time there is no faculty committee?

A No.

Q That determines whether a promotion is to be granted or not?

A Not at this moment.

Q Or makes an effective recommendation?

[3564] A No.

Q With respect to promotion?

A No.

Q Let's turn to tenure.

Would you tell us what the practice is there at your school with respect to the granting or for that matter withholding of tenure?

A At the present time it follows a similar pattern.

I have'nt had any personal experience as an acting dean with the question of tenure, but my understanding has been that in the 18 years I am on the faculty those people who continue on into the eight years have been automatically granted tenure as per the faculty handbook.

Q Was there some—strike that.

Is that a decision made to retain them until the date—until the eighth year by the dean or is it made by a faculty committee?

A At the moment I would say that is the dean's—let me put it this way:

Nobody in our school that I can recall has been hired on a year to year basis, as long as they haven't been told to the contrary, the people come back in September.

Q Now, let's deal with those situations where people [3565] are told to the contrary.

In other words, are not reappointed or are terminated.

A It has happened once, yes.

Q What is the practice there, at least in that one instance?

A In this one instance the dean informed the faculty member that he was not to be rehired at the end of the year, and I think he took the stand—this is Dr. Rosenthal—took the stand that according to the AUP regulations he had that right as a dean within the first year of a person's service to the university.

Q Was there a faculty committee that decided that there would not be a reappointment in this case or was it the dean?

A In this case it was the dean.

A committee—

Q Go ahead.

A The faculty didn't want to let it rest there, and so it instituted what you might call an informal hearing as a faculty and it had both the dean as a witness for himself and the faculty member who was to be discharged—who was discharged as of the coming June he came as a witness for himself, and I think what the faculty decided to do was that there was no case and they were not going [3566] to get involved.

Q And the discharge stood?

A And the discharge stood.

Q The faculty did not vote to reverse the discharge or have it reversed?

A No, they did not.

Q But they did hold a hearing on the subject?

A Yes.

Q All right.

And the dean submitted to himself—he submitted himself to that hearing as a witness, is that correct?

A Oh, yes.

Dr. Rosenthal did come to that.

Q Was there an appear in this case of the faculty review committee at the request of the university?

A I believe this faculty member did go to them and I don't really know what they said, but my recollection is something about trying to work behind the scenes to adjucate it, but I think their finding couldn't support his staying on or something like that, as far as I could really recall it.

Q Now, earlier in your testimony you made reference to certain guidelines, did you not?

A I think I mentioned that they were—yes.

Q Are these guidelines for the creation and work [3567] of the committee on academic appointments?

A That sounds familiar, yes.

Q And do these guidelines touch upon procedures to be applied with respect to hiring, promotion, tenure?

A Yes.

Q Non-renewal?

A Yes.

MR. KRAMER: Mark this Employer's Exhibit 138 for identification.

• • • •

Q Dean Green, I show you a document marked as Employer's Exhibit 138 for identification under the heading "Wurzweiler School of Social Work, Yeshiva University," entitled "Guidelines for the creation and work of the committee on academic appointments."

Are these guidelines to which you have just referred?

A Yes.

Q Are you familiar with this document?

A Pretty much, yes.

I have been reading it a number of times.

Q Would you tell us the genesis of this document?

A I think it started when Dr. Rosenthal said to the faculty in those areas where you don't—where you will not legislate, I will act.

[3568] In other words, wherever faculty had not made any rule or policy or recommendation or whatever, he would feel free to do it his way.

Q And in the other areas?

A Excuse me.

Q In the other areas where they had legislated?

A Then he would be guided by them.

Q Go ahead.

A So at the very same time I don't remember this too well, because when I came on this committee—the—let me just think a minute—there seemed to be a sense of pressure on the personnel committee that they ought to do something because a number of people were in the works towards tenure or at least had to be somewhat notified about a year in advance or something like that and so this committee was talking about, let's get something going so that when these people appear, or come up for this question, we will have some rules.

So they worked very hard and came up with this document in that direction.

Q About when was this document promulgated?

A Somewhere around when the semester ended, I think it was—I know it has the date May 30th, but it is somewhere around a week later or thereabouts in our spring faculty planning sessions.

[3569] Q Now, who promulgated and developed this document?

A Personnel committee made up of faculty. I think there were three or four faculty besides myself.

Q Now, has this set of guidelines been presented to the faculty for approval?

A It has, twice.

Q When was the first time?

A At the time—somewhere on or about this date.

Q Will you tell us what portion if any of this document was approved by the faculty at that time?

A Well, at that time the document in principle by consensus that this was the direction in which the group would like to move, was voted without necessarily adopting it as a working document, and a provision was put in that a reaction from the dean—you know, on this would be—should be reported before the final action is taken.

Of course, our dean passed away the following July, and so—in September or October the faculty asked me if

I would act as acting dean and respond to it, and I held back.

Q This is '74?

A Yes, this is in the fall of '74.

Q Continue.

A I held back because I felt as acting dean I really shouldn't get too—too involved as a dean, so to speak, [3570] but rather, to act as a dean—to be an acting dean, but now that we have in the last month or so, the urgency of preparing to hire people, to start looking for people is such that I finally said I would respond to the cabinet's suggestion that it ought to come up at the next faculty meeting and I brought it up on I think a week ago this last Tuesday.

Q Would you tell us as best you can recall what transpired at that faculty meeting with respect to these guidelines?

A Well, I said that as far as I could see I knew that it was a little tight on the dean's—a collar on the dean in a certain sense, I said that I would want two or three suggestions—two suggestions and one objection recorded for their discussion.

And the one suggestion was that that sentence on page 4, under no. 6, procedures for reappointment for purpose of tenure, I had said that tenure shall be granted when reappointment to the eighth year is made and I recommended that a sentence—had the sentence unless otherwise arranged, meaning a person could be hired for an eight-year or a ninth year, without having tenure.

Q In other words,—

A I was instructed that the university does not have a [3571] kind of thing.

I asked that the—I asked the faculty if they wanted to consider including that sentence.

Then the thing that hung the faculty up—

Q What was the faculty's response on that area or that suggestion?

A They didn't like it.

They thought this was—I don't know how to put it—it seemed too threatening in the sense that this is formalizing something that is in a sense the oral law rather than the written law.

Tha's all I can say.

Q And would you continue?

A Yes.

Then in the next paragraph under the same number 6, there is a little phrase called, whether financed initially by grant or university funds, and I said, I had to object to the phrase, whether financed initially by grant, because that would be collusion with faculty in our position to faculty handbook of university policy on grant appointments.

Q Would you tell us in lay terms what the university policy would be?

A Well, as an administrative officer of the university I couldn't agree to an idea.

[3572] Q What was that idea?

A The idea was to—I thought it makes this document a kind of social action document, to violate the university policy.

Q Which is what?

A Which is that grant people don't accrue time towards tenure while on grants.

Q In other words—

A As far as I understood the policy.

Q In other words, that people who are on so-called soft money for their entire support don't accrue time towards tenure while on soft money?

A That is my understanding of the policy.

Q All right.

This document as currently constituted on page 6 would be contrary to that policy?

A On page 4.

Q On page 4?

A Yes.

Second sentence from the bottom.

Q Would you, at the risk of lengthening an already lengthy record, read that sentence?

A The phrase is—

Q Read the whole sentence.

A For faculty members with full-time instructional [3573] tenures while fulfilling in full such assignments on full time basis, whether financed initially by grant or university funds, shall be equally credited in considering eligibility for tenure.

Q All right.

This was the sentence you disagreed with?

A Only the phrase, when financed—whether financed initially by grant.

Q What was the disposition of this objection of yours?

A The disposition was that for some reason the faculty couldn't move, and it took a motion by another faculty member that the only way to get off and do something about this was to adopt the introduction on 1, 2 and 3 of this document.

Q When you say the introduction on 1, 2 and 3, which paragraphs and pages are you talking about?

A The first page, which has the introduction, consisting of two paragraphs.

And then No. 1, which is the third paragraph and on page 2, you have the heading, 2, election of the committee, and 3, review of the committee's work.

Q It is a fact then that outside of those two pages and the second page is only paragraphs 2 and 3 on that page, the remainder of the document has not been adopted by [3574] the faculty?

A That's right.

They didn't act on it.

Q But action is pending?

A Well, the—I don't know whether it is in the motion or in part of the discussion.

The suggestion was made that once a committee was elected and that will take place this coming Tuesday, this committee would then look at the rest of the document and decide whether it is the kind of guidelines that it wants to be guided by and it may make recommendations to the faculty.

Q Putting aside the one suggestion and the one objection that you had to this document—

MR. SCHECTMAN: I think the witness testified to two suggestions.

THE WITNESS: Yes.

The other one was on page 11.

MR. KRAMER: Fine.

Q Will you tell us about that, I'm sorry, Dean Green?

A I guess you will see a sentence just before the word "settlement, the dean shall communicate the views of the faculty together with his own views to the president," and I had suggested to the faculty that I [3575] would be more comfortable as the acting dean—if these were accepted, that there be a charge perhaps that the dean shall communicate his views—his own views to the president and the faculty be permitted to address its own views directly to the president, on the grounds that I thought that the faculty had the—was the kind of group that could—could do it rather than as a conduit.

That was just a feeling I expressed to them.

Q Dean Green, putting aside the one objection that you had with respect to this document, which is based on university handbook and deals with the question of crediting grant time for tenure, putting that aside, does the faculty have the authority to promulgate this document as written should it choose to do so?

A I believe it does, yes.

Q And it would be effective and binding upon you, I take it?

A Yes.

Q All right.

A There is precedence for that.

Q There is precedence for that?

A Yes.

Q Would you tell us what the precedent is, Dean?

A Well, a discussion of a recommendation I was going [3576] to make on tenure to Dr. Fischman, a vice president of academic affairs was returned to me with—with a request that faculty take action on this before he even sees it again.

This was in a sense my support of a request for tenure and he felt that the way the school was operating in

terms of those old rules and promotions, et cetera, that I ought to present it, to the faculty first.

Q Now, Dean, let's turn to such old world coordination as may exist in the research area.

Is there any over-all coordination of courses in the research area?

A In a sense—yes, you know, as I mentioned once before this morning, the research teachers—let me start differently, if I may:

Dr. Sachs, who in a sense was the primary research person in the university—in our school, came to me in the fall or maybe it was in the spring, I am not sure, and he told me that Dr. Rosenthal had made a pledge to him that he would have a lighter load which meant two courses instead of three in order to act as a kind of coordinator to convene research people to discuss and to kind of commonize—I don't know if that is the word—bring everyone in the research sequence group [3577] into some more harmony around the idea of research out of one's practice, because a person—previous to that we had Sue Maizel and Dr. Hogtogs, people who came from this more formal school of research.

In order to help with that a regular full-time faculty who never taught research before was being supervised or monitored by Dr. Sacks, so that she could become more proficient in teaching research so he needed the time for that and also to—to have meetings with all four or five people to, you know, to bring this quality or direction of the research group up there to the best level he could.

Q Now, you said that Dr. Sachs supervised or monitored a new faculty member in the research area.

By the way, who is that faculty member?

A It is a full-time faculty member.

Q What is his or her name?

A Dr. Celia Weissman.

Q Now, Dr. Sachs monitored or supervised Professor Weissman, I gather he is still doing that at this time, is that right?

A If she wants it.

It was the kind of way of giving her the help and support so that she would take in something she had really never done before.

[3578] Q Is she on a year to year contract with you?

A She is a tenured faculty member.

Q I see.

Now, has Dr. Sachs a reduced load?

A Yes.

Q What role does Dr. Sachs play in the hiring of part-time faculty members?

A Well, an example there, the only thing I could say is that when—last year Dr. Bacon was planning to hire a sociologist who could teach research in the college.

He submitted the name of this person to me to give to Dr. Sachs, to see whether the—he would arrange an interview to determine whether this fellow would be suitable for us as a research teacher.

Q Did he interview him?

A I don't remember.

I think the thing fell apart in the negotiations with Dr. Bacon and the fellow from Columbia or wherever.

Q Does Dr. Sachs have authority effectively to recommend the hiring of part-time faculty members in his specialty area to you?

A Well, I would give it a lot of respect.

* * * *

[3583] Q Now, during the course of your testimony, you made reference to a hiring situation wherein you sought to have the particular candidate interviewed by a committee of women faculty members.

[3584] Do you recall that?

A Yes, to have lunch together.

Q To have lunch together?

A Yes.

Q And the faculty as I recall your testimony voted not to allow that to transpire?

A Yes.

Q Now, what happened to that prospective applicant? You told us she wasn't hired. I know that.

How did this come about? What were the circumstances that led to her not being hired beyond what you told us?

A Well, it became academic, because when I reopened my offer to her, she had already begun to—she had already made a visit down to the University of Virginia.

She had already been talking about how she is going to rent her house—I think she lives in Chester, or—in Chester, Pennsylvania, so really she had begun to move, you know, away from us, rather than—so it was—it became obvious that I couldn't really expect her to come on even though she couldn't say no.

She never did call back.

* * * *

CROSS EXAMINATION

* * * *

[3598] Q If any members of your full-time faculty were to seek or obtain employment outside of the university would they need your expressed consent and approval?

A They would need to get the approval of president Belkin.

Q Is that pursuant to university policy?

A Yes.

* * * *

[3599] Q Is there a welfare committee?

A Not a—what one might call a school committee.

[3600] It's a committee organized by the faculty, so-called, outside the bounds of the business of the school.

Q What is the business of that committee?

A The business of that committee apparently after sitting in on and negotiating, seems to be the economic welfare of the faculty.

* * * *

[3602] Q You indicated that you sat in on a negotiating session with this committee?

A Yes.

Q Were you a member of the committee?

A Which committee?

Q The Welfare committee.

A No.

Q And who are the members of that committee?

A The members are composed of I think everybody but the dean and the assistant dean.

HEARING OFFICER: Everybody, you mean the faculty?

THE WITNESS: Anyone the faculty wants to make a member but they rule out the dean and assistant dean. They are not invited to these meetings.

Q At the meeting you attended—strike that.

You were referred to the faculty, you are referring to the full-time faculty?

A Yes.

As far as I know, it is only full-time faculty.

Q At the meeting you attended was the entire full-time faculty present or were there any—only repre-[3603] sentatives present?

A No, there was like executive committee.

Q Would you tell us who comprise the executive committee?

A The group that met with Dr. Sokal and myself and Dr. Rabinowitz composed of Professor Wilson, Feiner, Levit, Sacks and at one period Goldstein.

Q Was three a chairman of the executive board of the welfare committee presiding on their behalf or denoted at such at that meeting?

A No.

I would say the initiative was taken by people who I don't know as chairman or as part of the executive—that is leadership by appointment or otherwise by the faculty.

Q And the Dr. Sokal to whom you referred is the vice president for business affairs?

A —Yes.

Q In what capacity was Dean Rabinowitz there?

A I think he is—he was there as a member of the budget committee of the university.

Q Was the purpose of that meeting to negotiate salary increases for the faculty at the Wurzweiler School?

A Well, it was at the time when the faculty presented their—what they would like the university to give them [3604] for the coming year.

Q And was there settlement reached at that meeting?
A There—
MR. KRAMER: At this point I am going to object, Mr. Hearing Officer.

* * * *

[3606] Certainly the question of managerial-supervisory status does not make this type of discussion relevant or material.

Quite obviously—we said this time and time again, employees of the university to be managerial employees do not need to manage everything, nor do they need to be managerial employees all the time.

The question is whether they have a managerial function.

Obviously managerial employees like other employees, they have a method of establishing their compensation.

It makes them no less managerial employees to the extent that they manage the university, nor do they have to manage everything at the university.

They just have to be managerial employees.

Obviously there are thing that the university does—that the faculty does not manage and we have made no bones about that being a fact.

We said it in the opening statement here and that is still our position.

The same thing with respect to supervisory status, they don't have to be supervisors all of the time.

[3607] They supervise in this unit, they are supervisors outside of the Act, no matter how their compensation is established.

It would be irrelevant to their supervisory status that their compensation may or may not be established in the fashion suggested.

Beyond that there is no dispute by the university that there is a welfare committee and this committee plays a role in the establishment of the compensation of the full-time faculty at the Wurzweiler School but this does not make the employees non-supervisory or non-managerial in any way.

It simply is irrelevant to the ultimate determination of this type of an issue and is redundant beyond words because we have had testimony that compensation in certain of the schools is established in the fashion that it's been established in—in essentially here, not all of the schools but in a significant number of them.

What went on at a particular meeting therefore really doesn't have any purpose in this proceeding.

* * * *

[3609] HEARING OFFICER: My ruling is it is relevant.
MR. KRAMER: Fine.
We except to that ruling.
HEARING OFFICER: Go ahead.
Q Was there a settlement reached at that meeting?
A Yes.
Q That settlement was consented to by the welfare committee, the representatives of the welfare committee at the present?
A They were to take it back to discuss with faculty.
Q There was consent on your part, Dean Rabinowitz' part and Dr. Sokal's part?
A There was consent on Dr. Sokal's and Dean Rabinowitz' part.
[3610] Q And your position?
A I was really not an active party to those negotiations.
Q Were you there as a representative of the welfare committee?
A I was there acting as acting dean of the school.
Q And on that basis of that settlement was there any increase in salary granted to part-time faculty members?
A No, sir.
Q Was there an increase in the salaries of full-time agreed upon?
A Yes.
Q And can you tell us the minimum range now for those members of your full-time faculty who are assistant professors?
A You mean the minimum salary?

Q That's correct.
A According to the scale?
Q Yes, sir.
A To the best of my knowledge it starts at $15,000 and goes six steps up, something like that.
Q To approximately what sum?
A 21, I think is the highest for assistant.
Q And for associate professor?
[3611] A Associate I think begins somewhere around 18 and goes again six steps.
Q To approximately what?
A Approximately 24.
Q And for full professors?
A I think full professors—I think full professors is somewhere around 21 to 27, something of that nature.
I am not exact but it is in that range.
Q And those rates are in effect for this current academic year?
A I can only say that the agreement arrived at was arrived at without reference to the scale.
Q It was across the board increase?
A Yes, sir.
Q So would that increase be in addition to the scales you referred to?
A Wherever people were on the scale at that time.
Q How much was the across-the-board increase for this year?
A $2,000.
Q So that if an assistant professor had been employed at $15,000 his or her salary would this year become $17,000?
A If he had completed one year of service.
[3612] Q And was there an increase agreed upon for the coming academic year of 1974-75?
A Yes.
Q That was across the increase also?
A Across the board.
All full-time faculty to be $1,000 in the near year and I think the three people who had been hired this year would bet $1,500.

Q And—
A Yes, because they didn't get the $2,000 this year.

* * * *

[3613] Q With regard to some of the subjects you referred to that were discussed in the faculty meetings, you mentioned one of the subjects was enlarging the school, did you not?
A Increasing the number of incoming students—the size of the incoming class.
Q And that increase was in fact effected?
A Yes.
Q And in finally effecting that policy did you or any other members of the Wurzweiler School consult with any members of the university administration?
A I don't know of any consultation. I think—I don't know of any consultation with anyone besides the faculty making the decision.
Q Was approval obtained from any other administration sources?
A No, no. I know that—
Q You began a sentence—
A Anything that brings income into the school is affirmed.
Q And for instance did Dr. Sokal affirm this plan?
A Well, they were pleased with it but since it was a faculty decision they had no—they said nothing about it [3614] one way or the other.
Q Except they were pleased with it?
A Yes.
MR. KRAMER: The witness has testified that they were pleased with it.
THE WITNESS: Yes.
MR. KRAMER: But also that it didn't require approval and they didn't approve it.

* * * *

[3617] Q Dean Green, do you prepare a budget for your school?
A Yes.
Q And what are the major categories included in that budget?

A Faculty salary, income, possibilities of either from tuition or other sources. I think those weigh rather heavily.

Q Are there other items such as supplies?

A Yes.

There is travel and—but they don't have the same weight as where the money comes in or where the money goes out.

Q And is it your sole responsibility at the [3618] School to formulate this budget?

A Well, I do it in conjunction with Dr. Sokal.

Q Dr. Sokal is the vice president for financial affairs?

A Yes.

Q And he reviews your itemization of the various figures in the budget?

A Yes.

We discuss them.

Q And that would include projected income from enrollment and other sources?

A He would ask me what my anticipated class sizes would be and what the income might be.

Q When do you prepare a budget for an academic year?

A I'm not certain because I really haven't done more than a half—coming in the middle.

Q Do you know what the past practice has been?

A It should begin sometime in the spring. Sometime around now.

Q And at that time you make projections to which you referred?

A Yes.

Q And they are discussed with vice president Sokal?

A Actually they might be discussed with the vice president of academic affairs.

[3619] Q And will they at times recommend or mandate some changes in your projected budget?

A They have made suggestions and they have as I understood it, they set a bottom line to it.

Kind of deficit the school can accrue.

Q And then the budget is determined according to certain standards or limits which have been established by vice president Sokal and/or Fischman?

(continued on next page)

[3620] A I guess so, I haven't gone through the process wholly. My first real time was when Dr. Rosenthal came out of the hospital and then came to a budget meeting, I sat in with him and I eventually done it on my own budget but that's the interest I had.

* * * *

[3622] Q (By Mr. Shectman) In your testimony you made reference to your faculty considering an increase in tuition, did it not?

A Yes.

MR. KRAMER: Could I hear the read back, that question?

(Record read.)

Q And do you know who initiated the issue as to a possible tuition increase?

A Yes.

Q Who was that?

A Dr. Rosenthal.

Q Doctor Rosenthal is the former dean?

A Yes. He was at that time the dean. That's not—

Q You were his assistant at that time?

A Yes.

Q Do you know whether—do you have any personal knowledge of what that issue—whether that issue was initiated in response to any budget structures set by Dr. Sokal or the—or other university administrative officials?

A I really don't know. It was something he mentioned as a course, but I don't know who started the—whether it was his initiative or anybody elses.

* * * *

[3633] Q You referred in your direct testimony Dean to the use of the Queens Educational Center or was it Medical Center?

A Queens Educational Center.

Q And that was used in connection with the Wurzweiler field construction program?
A Yes.
Q Does the faculty of—approve of all agents involved in the field instruction program?
A No.
Q And by what process are those agents chosen?
A Agents sometimes usually call us and express an interest in this process. Then the dean or a representative, in this case the field instruction course—coordinator, would go out and discuss our standards, requirements and so on, bring back a report, and discuss it with the field construction committee at the—and then they might act after just informing me or just—discussing with me—it has these variations.
Q On occasion has it been you would—who would has interested—has expressed those agents?
A I was going to some agents, yes.
Q And made recommendations that they be accepted?
A Yes.
Q And those recommendations have been implemented, have they not?
[3633A] A Yes.
Q And in fact you receive most of the inquiries?
A No, sometimes they come through faculty members who are known to the community.
Q And those would be passed on to you?
A Generally to the field construction committee?
Q And he will consult with you?
A And then we have meetings every so often to discuss the status of the ongoing agents and what the future looks like, etc., and we will—
Q Who is, "we," I am sorry. The field instruction—field construction coordinator or the committee?
[3634] Q You referred to Mr. Lloyd Setleis, as the Chairman of the Doctoral Committee?
A Yes, that's what he is referred to as.
Q Is that an informal title?
A We don't have chairman of anything in a sense, and we struggle always with titles as to how to—so that we call him chairman when—which comes out of the old

days when there was a chairman of a committee to set up the doctoral program but now he's more in a sense a convenor a coordinator of the doctoral program.
Q And he will meet from time to time with that committee?
A Yes.
Q And how often does that committee meet?
A At least once a month.
Q And approximately how long are those meetings?
A About two hours.
Q And does any secretary attend that meeting?
A To my knowledge, we have not had any, although Dr. Setleis has wanted to bring—to bring—his secretary in and he did at one time, when I was present at a meeting.
Q But that was only at one time?
A When I was present.
Q And she was a passive observer?
A No, she took minutes.
Q And you indicated that Professor Setleis has a full work load, does he not?
[3635] A Yes.
Q I mean a full teaching work load, and that includes student vices, does it not?
A Yes.
Q Does he serve on any dissertation committees?
A Yes.
Q And how many hours a week is that secretary employed?
A The one that works with Dr. Setleis?
Q Yes.
A Less than 19 hours.
Q Less than 10 hours a week?
A Yes.
Q A good deal of that time she is typing papers?
A She is primarily doing work that he wants her to do.
Q A good deal of that work is typing is it not?
A Typing, some dictation, yes.
Q And did he hire that secretary?
A He interviewed her at my request.

I put a call out looking for a secretary and when this lady came forward and I met with her and then I had my—many interviews with her and he thought he would like to have her.

Q Did you make a judgment that she was satisfactory before you referred her to him?

[3636] A According to my standards she would have been satisfactory to me.

Q Was it then your desire to see if it was his opinion that he could work with her?

A Yes.

Q And during the 19 hours or less a week that she works is she constantly in the presence of Professor Setleis?

A Part of the time she is located near his office in an adjoining room.

Q And Professor Setleis is in another room, am I correct, most of the time?

A Yes.

Q And is it possible that Professor Setleis would be teaching while she were working?

A Yes. Yes.

Q You indicated when you testified with regard to the community social work committee that they were involved with a grant from the Jewish Federation?

A Well, they're not really involved with the grant. The grant was made to the school, and this committee meets from time to time with the Federation Committee to discuss how the program is going.

They have nothing to do with the grant.

Q And that grant was settled with university officials?

[3637] A I think it was settled with the approval of the university.

Q You also testified as to the Atran Lecture Service Committee?

A Yes.

Q That's made up of one faculty member?

A To the best of my knowledge.

Q Approximately how many students?

A I know only one active student that keeps—she was present at the—as the president of the student council so she was always on my back about it.

Q There are other students on that committee?

A I know she tries to get students committees made up of more than one person but I never bothered to check whether Miss Ossebell was working with other people besides Professor Feiner.

Q Does Professor Feiner and that woman and possibly other students meet together to decide or reach—or to reach a consensus among them as to a possible speakers for this lecture service?

A Yes, they do.

Q You indicated that for the hiring of full-time faculty that that the applicant first comes to you or your attention?

A That's the practice, yes.

[3638] Q And then you refer that applicant to the Ad-Hoc Committee for consideration?

A To Ad-Hoc Faculty Selection Committee.

Q Do you screen these applicants before you refer them? Or do you refer each and every applicant?

A Oh, no. No. There's a screening.

Q And that screening is done by you, is it not?

A It has been.

Q And that is a first level screening, is it not?

A Yes.

Q You indicated that generally the Ad-Hoc Committee decisions were complied with after you had referred an applicant to the committee, am I correct?

MR. KRAMER: He didn't say an applicant, he said applicants, plural.

MR. SCHECTMAN: I am referring—I am speaking generally.

MR. KRAMER: No, you are characterizing his testimony. You are not speaking generally.

MR. SCHECTMAN: Make the reference to applicant plural please.

A Whenever and Ad-Hoc Faculty Selection Committee has made a recommendation to the dean it has been accepted.

Q That's only subsequent however to the dean's referral of any applicant?
[3639] A Yes.
Q And that committee does not pass on salary or range, am I correct?
A No, it hasn't. That's negotiated.
Q Between you and the applicant?
A Between the dean and the applicant.
Q You indicated that the continuation of employment of a faculty member to an eight year of service entitles that faculty member to tenure, did you not?
A Yes, that's the faculty handbook rule.
Q That's pursuant to university policy?
A Yes.
Q And is it required that such a person receive a formal notice or letter of tenure?
A I am under the impression that if a person is rehired so to speak for the eighth year, that that automatically gives him tenure, or without a letter.
Q And in past practice this has been the decision of the dean to extend employment to the eighth year, has it not?
A Yes.
Q Now, you indicated that Employer's Exhibit 138, the guidelines for the creation of work of the committee on academic appointments was promulgated by the personnel committee, am I correct?
A Yes.
[3640] Q You were a member of that committee were you not?
A Yes, I sat in on it, yes.
Q And did you contribute ideas?
A Contributed ideas, yes.
Q And recommendations?
A Discussion of recommendations.
Q And opinions?
A Opinions.
Q So accordingly you had some input into the preparation of these guide lines, did you not?
A To some extent, yes.

Q And they were revised by the faculty you indicated in June of 1974?
MR. KRAMER: I think—
MR. SCHECTMAN: He indicated shortly after May 30, 1974.
THE WITNESS: No, this document that you have before you was presented right after this May 30th date.
MR. SCHECTMAN: I see.
THE WITNESS: And consensus was arrived at that this is a good way to go.

BY MR. SCHECTMAN:

Q But as of this date through paragraph three on page two?
A Had been formally approved.
[3641] Q Thank you.
Is it not true that the policies set forth in this document will be governed by any university policy in connection with any matters raised herein?
A Oh, yes, it says so somewhere, that nothing in this statement can supercede the university regulation.
Q And that would be or that would include the faculty handbook, would it not?
A Well, the faculty handbook is the university handbook.
Q And those were the university regulations, are they not?
A Yes.
Q And the Wurzweiler faculty comes under those university regulations?
A Oh, yes.
Q And is it not the president of the university who has the ultimate authority to act on issues of hiring promotion and tenure?
A Yes.

* * * *

[REDIRECT EXAMINATION]

[3642] Q Dean Green, you told Mr. Schectman on cross that you participate in the personnel committee meetings that led to the preparation of Employer's Exhibit 138, is that correct?
A 138?

Q The guide lines?
A Oh, yes. I am sorry. Yes.
Q And others participated as well?
A Why there are three or four others.
Q You contributed ideas and recommendations?
A I think I did.
Q Did the others contribute ideas and recommendations too?
[3643] A Yes.
Q Now, with respect to the Ad-Hoc Committees on hiring that you testified to, do you submit several applicants to these Ad-Hoc Committees—in other words, or do you submit one applicant for a particular job?
A Well, I can tell you what we are doing now because that's the only real time I have—
Q Tell us.
A When the cabinet discussed the need for additional personnel, they suggested and I agreed that the Ad-Hoc Committee made up of two cabinets—cabinet members in the case work concentration should look through my whole folder of people who have written in response to a call we made to the counsel saying we would like a job with you and they were suppose to do a screening, and in preparation for this committee on academic appointments they would get whatever recommendations these two people will make and they will make up their own mind.
Q Now, just focus on my question for a moment.
A Sorry.
Q Does the Ad-Hoc Committee select from several applicants or just from one applicant for a position?
A Well, what I am describing now is from several.
Q And in the past?
[3644] A In the past it's—I know of one instance from several.
I know of one instance that I was only related to one person where there had to be a choice made between two people at one time and the other there was one person very desirable.

Q Prior to your deanship did these Ad-Hoc Committees function?
A Yes.
Q Did they select from several people for a particular operation for one person?
A The one example is from the time of Dr. Dicker to deans form me so to speak.
Q How many people have been hired, Dean Green, for full-time appointments during the last five years?
A There were three that began in—began this year. May I look at this?
Q Were they grant people or new people?
A Well, two of them were grant and one was on full salary.
Q Were they—were they screened by Ad-Hoc Committees?
A Oh, yes, they sure were.
Q Were there other applicants for their position, that's what I am asking you?
A Yes.
[3645] We had a folder, this thing, (indicating).
Q Did the Ad-Hoc Committee go through this folder this thing and decide who would be interviewed and which ones should be selected?
A They looked at a number of them, I don't know whether they went through all of them, it was available.
Q Is that the same procedure that's been applied in prior years?
A Well, Dr. Dicker, in prior years as I recall, generally got recommendations of people and would call in—call them in one at a time and then expose them to faculty in the way I described, and then he would try to get a recommendation.
Q I am—
A I am sorry.
Q I am a bit unclear.
A Yes.
Q You hired three people for the '74?
A '75.
Q School year?
A Right.

Q For each of those positions was there a screening by the Ad-Hoc—an Ad-Hoc Committee?

A You mean did they interview the applicant?

Q The applicant—did they interview multiple applicants for each position?

[3646] A I would say that—may I use names of faculty?

Q Go ahead.

A That Dr. Chartock and this lady who went to Virginia were in a sense two contenders if we hired the lady he wouldn't be working today, no matter how desirable he was.

So I know there were these two possibilities.

Q Right.

A Levitz I know came through—let me think a minute—a strong recommendation by a number of faculty people but I don't know how many other they screened out.

Q All right.

A And Levy I know was also out of a number of different recommendations. That's all I can remember.

Q Which is the one in which you referred to a file something?

A That—it was around—wait a minute. It had to do with those last two appointments, Levy and Levitts.

Q And who screened the file something?

A The Ad-Hoc Committee.

Q They made a recommendation to you in each instance?

A Yes.

Q And you accepted that recommendation?

A Yes.

I just want to make sure—I don't know how many [3647] recommendations—how many applicants they recommended. I think they may have pinpointed either one —you know, one or both, that's all I am trying—that's why I am so hazy at the moment.

Q Now, with respect to the field instruction, you commented on cross examination in response to a question from Mr. Schectman that you made—you yourself

made recommendations concerning certain field agents to be utilized by the school.

To whom do you make those recommendations?

A To whom do I make those recommendations?

Q Right.

A Usually to the—well, the—to the faculty—the field instruction coordinator.

Q And does he take them up with the file instruction committee?

A Usually.

Q And is that committee of authority in most instances to make a determination as to whether the agents will be taken on?

A He shares the authority with them and I share it with—with those two parties.

Q And is that why the faculty itself is a—as a whole does not make this decision in most cases?

A It's a delegated responsibility.

[3648] Q Now, you told us that Professor Setleis interviewed his new part-time secretary?

A Yes.

Q Is that correct?

A Yes.

Q You interviewed her too, is that right?

A Yes, I had to find out if she was interested and under what conditions she would want to work and did she have any experience and so on.

Q If Setleis didn't want her would he—she have been hired?

A No.

Q You would not have taken her on?

A I couldn't.

Q Would it be fair to say that he had the effective veto over whether she would be hired?

A I would say that's true, because it was in, all right, yes.

Q How long did Professor Setleis take interviewing the new secretary?

A I don't know.

Q Do you remember the day it took place?

A I could refer to the records of when she was hired.

Q But you don't have any independent recollection in [3649] this area, do you?

A No.

Q As to when it took place or how long?

A I don't.

Q Now, you told us that you didn't think that—you said you didn't think that Mrs. Lentschner hired her secretary, Mrs. Ruderman, is that correct?

A Yes, I don't know.

Q Is that you don't think that she did or you don't know whether she did?

A I don't know because she has been doing this for quite a few years and I was never really in a position of caring so to speak.

Q So if your testimony on cross is that you don't think that she did, you would want that testimony corrected, is that correct?

A I would say that I have no knowledge as to whether she did or didn't.

Q Now, assuming Mrs. Ruderman lest the employ of the institution, would Mrs. Lentschner have the same effective veto power of hiring a new secretary that Professor Setleis has?

A I would say, yes.

Q In other words, you wouldn't take someone on for that position that she wouldn't want?

[3650] A Not without her approval.

* * * *

[3657] Q (By Mr. Kramer) Now, Dr. Green, to your knowledge while a faculty member or while an acting dean or assistant dean has the president of the institution every discussed—ever disapproved the hiring of a particular faculty member?

A I know of no such instance.

Q Has the vice president of academic—for academic affairs ever disapproved the hiring of a particular faculty member?

A In our school I know of no such instance.

Q To your knowledge Dean Green during that same period of time has either the president of the institution or the vice president for academic affairs ever directed

or for that matter effectively recommended the hiring of someone in your school that your faculty didn't want to hire or chose not to hire?

A No. No such case.

* * * *

[RECROSS EXAMINATION]

[3660] Q And have you obtained authorization to replace him with another full-time faculty member?

A No.

Q And is authorization required?

A I would say yes.

Q And from whom do you obtain that authorization?

A From the president's office.

* * * *

[LEO LANDMAN—DIRECT EXAMINATION]

[3664] Q (By Mr. Bodner) Dr. Landman, will you tell us your position at Yeshiva University?

A I'm Secretary of the Faculty of Bernard Revel Graduate School and Associate Professor of Jewish History.

Q How long have you been Secretary of the Faculty?

A Approximately, six years.

Q Is there currently a Dean, during this current semester, at the Bernard Revel Gradulate School?

A No, there's not.

Q Now, in addition to the Bernard Revel Graduate School, is there another school that operates out of the same locale, and generally uses the same faculty as the Bernard Revel Graduate School?

A Well, there's the Harry Fischel School, but the Harry Fischel School is a summer school of the Bernard [3665] Revel Graduate School.

Q And apart from the fact that it is a summer school, is there generally a similarity of the faculty?

A It's the same faculty.

* * * *

Q (By Mr. Bodner) Dr. Landman, the questions that I will be asking you during the course of your testimony, then, will relate to both the Bernard Revel and Harry Fischel Schools, and if there are any differences or distinctions between them, would you point them out?

If not, I will assume that your answer is applicable to both.

A I will.

Q Okay.

Is it true that Mr. Joshua Fishman is currently Acting Dean of the Bernard Revel School?

A Yes, he is.

Q That is Dr. Fishman, who also serves as Vice-President for Academic Affairs?

A Correct.

Q And his Acting Deanship will cease, I would assume, as of the appointment of a new dean in the coming academic year?

[3666] A Correct.

Q That is, the subsequent academic year?

A Correct.

Q Now, you mentioned, Dr. Landman, that you hold a faculty rank as Associate Professor of Jewish History.

How long have you held that rank?

A About three years, Associate, and before that, it was Assistant Professor.

Q Have you—Are you currently teaching any courses?

A Yes.

I'm teaching two courses.

Q Those are both at the Bernard Revel School?

A At the Revel School, yes.

Q Do you teach courses at any other school of the University?

A No, I do not.

Q Now, you mentioned, Dr. Landman, that you teach two courses.

Is your status that of a full time or a part time faculty member?

A Part time faculty member.

Q You do not teach courses at any other school, so that you are not full time at any other school of the University?

[3667] A No, I'm not.

Q Or full time, on a University basis?

A No.

I'm only at the Revel School.

Q Dr. Landman, will you briefly describe for us the nature and purpose of the Bernard Revel Graduate School?

A Well, the Graduate School, Bernard Revel Graduate School, is a graduate school of Judaic.

It attempts to teach how to do research, and to enable individuals to teach on the college or graduate level, or to do research or both.

We have a variety of fields that we're interested in, Jewish philosophy, Ancient, Medieval, Modern History, Semitic language, Bible, Hebrew Literature, and so on.

Q The purpose and nature of the Harry Fischel School, would that be essentially the same?

A It's the same, except as I said before, it's a summer school.

Q You mentioned, Dr. Landman, that you hold the position of Secretary of the Faculty, even though you are a part time faculty member.

Was there ever, previously, a dean of the Revel School, who was a part time faculty member?

A Yes.

Q What was his name.?

[3668] A Dr. Sidney Hoenig.

H-O-E-N-I-G.

Q And he acted as dean, though he was a part time faculty member, even at the same time that there were full time faculty members available in the school?

A Oh, yes.

Q How recently was Dr. Hoenig dean?

A He was dean until this past year.

Q Okay.

A Until, I think it was September 1st that his deanship ended.

I'm not quite sure of the date.

* * * *

[3679] Q I show you this and ask you if this is a copy of such a list, indicating the members of the committees?

A Yes, it is.

MR. BODNER: I ask this be marked for identification as Employer's Exhibit 141.

* * * *

[3683] Whereupon,

ZEVULUN CHARLOP

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Bodner) Rabbi Charlop, would you tell us your position at Yeshiva University?

A I'm Director of the Yeshiva Program.

Q How long have you been Director of the Yeshiva Program?

A Since 1971.

Q Prior to that time, what position, if any, did you hold at Yeshiva University?

A I was an Instructor of Talmud in the James Striar School, and I was a Lecturer in American History at Yeshiva University.

Q Do you now, or did you previously, teach any courses in the Yeshiva Program?

A No.

Q Did you hold any administrative positions in any of the other schools of Yeshiva University, other than Yeshiva Program?

In addition to your teaching responsibilities.

[3684] A No.

Q Rabbi Charlop, would you describe for us the nature and the function of the Yeshiva Program?

A The Yeshiva Program is one of three Jewish Studies Programs, which is open to students of Yeshiva College.

Its emphasis is on Talmud and Codes.

The Program meets five days a week, Sunday through Thursday, meets for about twenty hours or so, from nine in the morning to a quarter to three, which is inclusive of lunch hour.

Q You mentioned there are three Jewish Studies Programs.

A Yes.

Q What are the other two Jewish Studies Programs at Yeshiva University?

A The James Striar School and the Erna Michael College.

Q Now, the Yeshiva Program, I take it, does—

Let me ask the question.

To whom does courses at the Yeshiva Program apply?

Who are these courses offered to, students of Yeshiva Program, or students of other colleges?

A Students of Yeshiva College, and students—

There are several students who do not attend [3685] Yeshiva College.

Q And the students that are not from Yeshiva College, where are they from?

A They're usually not going to college.

Q So, is it correct that the primary emphasis is courses that are undertaken in the area of Jewish Studies for Yeshiva College students?

A Yes.

Q Are these courses, offered to Yeshiva College students, part of the required courses or curriculum of Yeshiva College?

A The required curriculum of Yeshiva College is that a student must attend one of the three Jewish Studies Programs, and he has to attend one of these three schools, and ours is one of the three schools he must attend.

* * * *

[3694] Q Will you tell us what the general length of that probationary period is?

A It's understood at the outset that the first year is probationary.

In some instances, it becomes necessary to tell the member of the faculty, new member of the faculty after a year, that we would require another year.

Perhaps, in one instance, there were three years, but that's as far as it ever went.

Q So, the probationary period has not extended beyond this two or three year period?

A Essentially, one or two years.

* * * *

[3698] Q Would you tell us what factors you take into account in determining whether a faculty member should be retained beyond his probationary period?

A His effectiveness as a teacher.

How students relate to him.

How he manages to convey the information necessary; [3699] how he inspires his students.

* * * *

[3704] Q Now, Rabbi Charlop, would you describe how decisions are made in your school on what courses are to be taught?

A We take a concensus.

I consult every member of the faculty.

The set-up at Yeshiva Program is that every year we study one of the tractates of the Talmud.

Q Would you describe for us what a tractate of the Talmud is?

A The Talmud is the body of Jewish Law called the Oral Law, which was written over a period of close to 500 years, and is originally, as it's stated, an Oral Law, that was handed down from generation to generation, until it was finally put down about a century before the common era.

[3705] It was actually put down two centuries after the Common Era, but the people mentioned, the Rabbis, Talmudic Rabbis, extend from before that time, until the beginning of the fifth century.

There are approximately sixty volumes in the Talmud, and every year, we choose to study one of these volumes.

Some volumes are much larger than others. We may decide to study the same volume over a two year period, in order to cover the material, because the material may be diverse, altogether separate and distinct.

The first part of the same Talmud as the others, is a variagated kind of work.

What we do is, we try, during the course of four years, to give the students a cross section of the Talmud, at the same time to tune him in on those particular folios or tractates, which have classically been—become of greatest concern and interest in scholarly Talmudic circles down through the ages.

So, in order to be able to do that, let's say that we have the—the Talmud is divided into six orders, sixty volumes are divided into six orders, which were originally the Mishna, and one order, for example, which is called Ziran—

[3706] MR. SHECTMAN: In all due respect to the witness, and I'm sure he can appreciate what a Talmudic tale is woven in the course of these hearings, but I question if we need belabor the record with this very interesting description of the Talmud, but might, rather, go on to the more mundane and more practical problems which the Board is concerned with.

THE WITNESS: I was hoping to reach the mundane.

I think that by the time I'm finished, which should be four or so,—

MR. SHECTMAN: Let the record reflect, it's 2:15.

THE WITNESS: We would have reached that point.

The six orders of the Talmud, which is completely relevant, let me tell you, so you have—one was to do with agriculture, one was to do with laws of men and women, one has to do with laws of purity, family purity, one has to do with the laws of the holiday, Sabbath.

Each one—They're all the same, in the sense that they follow a similar discipline, but they touch on different subjects entirely, different concepts, different principals.

There are some universal principals running through it, some distinctive principals.

Let's take this year, we had to—we had taken the Order of Moed, that has to do with the holidays—[3707] with the holidays, and with the Sabbath.

So, then, we, as a matter of course, when I say, we, the faculty, myself, anybody involved in this, knows that we'll next year let us try to find a Talmud that is not Moed, be of a different order.

I'm never quite sure what order it's going to be, because we discuss it with every member of the faculty, individually, and I begin to get a concensus.

I say, at this time, we did Moed, the concensus would be, let's do Nashim, which treats with relations of men and women, and a special tractate, divorces, marriages, things of that sort.

There are various tractates in this order.

Let's say, the concensus would be that instead of torts. We happen to be doing torts. That's in Nezkin.

Q (By Mr. Bodner) Can I just ask, at this point, Rabbi, this decision reflects the concensus of the faculty?

A Certainly.

What I'm trying to say, so we would come down to a concensus, what order we'd follow next. And then everybody of the faculty is consulted.

Sometimes we have them in twos and threes, but usually, and then, let us say, that the concensus comes [3708] to a certain order and to a certain volume, we will accept it.

I leave in, even if I have a case where ten members of the faculty say they want one—they feel one volume, one tractate for this year, and three say they want a different one, then I think part of my responsibility is to go to the other three and find the depth of their opposition, or their preference.

If I find that it's just, almost an optional thing, they would prefer to, but they'd go along with the rest, that's really what we're trying to do, we're trying to get some kind of comety.

If I find it's really deep-seated, then I look for another alternative, and see the other ten, and that has happened already, so there should be a concensus of the faculty, because the whole faculty studies the same volume.

Q By concensus, you mean with each individual's consent?

A With each individual's consent.

Q What was the decision of the faculty as to what tractate should be taught in this current academic semester?

A It was the decision to do the—to do Nezkin, which is torts, and to do Baba Kama, which is one of [3709] the essential tractates that have to do with torts.

Q Now, once the decision is made by the faculty to have this year's program in torts, how is the decision made as to what each individual faculty member should do in his teaching part of that tractate?

A Well, they all teach the same thing.

They all teach—

See, the—one of the most important parts of Talmudic learning is self-study, study on the student's—on his own, in addition to lecture.

They're very difficult, intricate points.

The community of the Yeshiva Program is—it extends beyond the hours, the circumscribed hours, in the sense, a boy wants to go over his work at night, he wants to be able to go to someone else to discuss it.

He may not be able to discuss it with people in his own class.

They may have chem laboratory at night.

Then he might be at a lower level, and he would want to get a more mature and in depth opinion here. So, he would go to a boy in a higher class and say, how did you learn it.

If each one was learning a different part, this kind of community could not exist.

Q I see.

[3710] Now, are there different ways in which the tractate in torts can be taught?

A The different styles—

There are different styles, yes.

Q Are there different aspects of the Talmudic—

A Of the same material?

Q (Continuing)—of the material that could be emphasized or de-emphasized?

A Certainly, sir.

Q The decision as to which parts are emphasized or not emphasized, is that made by the faculty member?

A Yes.

Q The decision as to which sections of the Talmudic work related to torts, will be utilized, is that also made by the individual faculty?

A No, that's made by the concensus.

Q By the concensus.

Now, in determining Talmudic courses, is it necessary to bring in teaching the Bible underlying the Talmudic works?

That is, a professor in your school required to teach Bible as part of his Talmudic course, or is that optional?

A That's entirely optional.

A student learning the Talmud, as a presupposition, [3711] assumption, that he knows the Bible, because the Oral Law, of course, is based on the—it impinges on the written law.

It's the elaboration of the written law.

The style of some of our faculty is just to stick to the Oral Law, and take the assumption that the written law, the boy will do it on his own, or he has already done it.

Now, you know, even the written law is the Bible, it's the literal laws that was given, there are many levels, and some of our faculty feel that even if it's—he's a college level, and he may have studied Bible for the last eight years, he still doesn't have the depth or the kind of perception that he ought to have for the Talmud.

So, we have some of our members of the faculty on their own, arbitrarily on their own, make certain slots during this half an hour, an hour a week, a half hour a day, whatever it may be, to teach certain parts of the Bible.

Q This decision is up to the individual faculty member?

A Yes.

He has tremendous leeway.

Q Are there any other areas of his work that you [3712] can describe for us, where this leeway also exists?

A Certainly.

The question of practical law.

Now, when we talk torts, the various parts of the Oral Law, essentially, they are conceptual.

We tach principals.

Let's say that we're reteaching this year torts, and we're talking about how, if my ox gored your ox, now, this boy is really interested about the Sabbath, can he do—can he carry something, can he do something on a Sabbath.

Now, that's not taught to him at all.

If the Rabbi feels that he must devote a member—a member of our faculty feels he must devote the entire time to, just to teaching the Oral Law, and let him get this practical law on his own, the books are available, and he feels he should be adept to do it, then he has the right to just teach his Oral Law.

If the member of the faculty feels he wants to spend an hour a week on practical law, which may have to do directly in showing, first of all, how these conceptual notions which are developed in class, torts, would deal directly to his Cadillac crashed into the teacher's Rolls Royce—we have a very well paid faculty—he could do that, or he may just teach [3713] them Jewish law, practical law, that has to do with Sabbat, or has to do with divorce, has to do with marriage.

Q This is a decision of the individual?

A Completely.

Q Are there exams given during the term of the class, by each faculty member?

A Yes.

Q And who decides what the exam will include?

A The faculty member.

Q Are there times during the normal period of Sunday to Thursday, when the faculty member would cancel the class, or change the schedule of the class to reflect his individual needs or problems?

A He can't cancel a class.

You see, again, when we're talking about this community, all classes are from nine to a quarter after twelve.

Well, let me put it this way.

The freshman and sophmore classes are Monday and Thursday—Monday and Tuesday, nine to a quarter after

twelve—Sunday and Tuesday, nine to a quarter after twelve.

Monday, Wednesday and Thursday, to a quarter to three.

[3714] The junior and senior levels are Sunday and Thursday, from nine to a quarter after twelve.

Then, Monday, Tuesday and Wednesday, from nine to a quarter to three.

That's the slot where the teacher must—that's his slot.

Normally speaking, the structure of a—as it was classically part of the tradition of Yeshiva, and we're different now because we have it ordered within a University framework, so you have to understand these distinctions, was that in the morning hours from nine to a quarter to twelve, or nine to twelve, to the lunch hour, the student was essentially on his own, either in his classroom, or in the study hall, reviewing and preparing—reviewing what he did previously, and preparing for the next lecture.

Then the lectures would be a quarter to twelve to 2:30 or so.

The professor would give a lecture. The professor is there at all times, questions are asked of him.

This is actually what we—the minimal of what we expect.

We really don't expect anything more.

Now, this is what a teacher can do, and this is what—this is not the exception to the rule.

[3715] It so happens that the exception have become the rule.

That some teachers teach an hour in the morning, and an hour in the afternoon, instead of having two hours.

They feel the two hour lecture at one shot is too much, and they feel they want to break it down.

Q This is up to the individual faculty member?

A Yes.

Some faculty members say the boys are not coming in at nine o'clock, or they feel they want to get him started in some way, each man has his own approach, and he may begin at nine o'clock, a quarter after nine to 9:30,

I'm going to teach practical law. I'm going to get everybody down there at nine o'clock.

He doesn't have to do it, we don't expect him to do it, but he can do it.

The same thing, he can do with Bible, as he told you.

Beyond that, he even has the right to do it, and there may have been some complaints from students about this.

We have never yet interfered with this right.

To mark papers, give examinations, on this optional, totally optional work, which we didn't [3716] require of him.

Q This would be reflected in the student's grade?

A This would be reflected in the student's grade.

Q This decision is also made by the individual faculty member?

A Yes.

I must say, if a faculty wanted to start teaching Playboy, I feel that I would have to step in.

This is—In the thing there.

But I don't know even if I would be able to do anything in that event; thank God it never happened.

Q But, in essence,—

A I may have to discuss it with the young man. That's all I could do.

I could discuss it with the teacher.

We never really had it. We were talking. We never really had it.

If I had it, I would have to discuss it with him.

I don't know if I could even stop that.

Q As of this point, have you ever had a situation where you have had to impose—

A Never.

Q Are there any limits then, other than what you have described in view of the concensus of the faculty, as to the tractate applicable for that year, are there [3717] any limits on the means by which the faculty member carries out his work responsibilities in the schools?

A No.

Q And your testimony has been with regard to this year's tractate—

A What do you mean by means?

I don't know what you mean by means.

Q By means, I am referring to how he goes about teaching his course.

A No.

Q Where he schedules exams at particular times, other times?

A He must—We require one exam a year. One exam a term, a semester, a final examination.

Many teachers give mid terms.

It's not required.

Q This is up to the individual faculty member?

A There are some professors that give five examinations a year. A semester.

Some—All covering just the Oral Law, and some a combination.

And the professor has—

Q Apart from that, the means by which he conducts his responsibilities, are his decision?

A Yes.

[3718] Q Would this also be true with regard to other tractates, other than the one that is taught this year?

For example, if, next year, the decision was made to teach a tractate in holidays, would the same situation be applicable?

A Certainly.

Q With regard to the right—

A Makes no difference.

Q With regard to the right of the individual faculty member?

A Makes no difference.

Q Rabbi Charlop, has there ever been a meeting of the Yeshiva Program faculty?

A No.

We have had once a meeting of the Yeshiva Program faculty, in conjunction with the RIETS faculty.

Q Were some of the issues involved in that meeting, related to the Yeshiva Program, apart from those also—

A They were only related to the Yeshiva Program.

Q I see.

Would you tell us what were the issues that were involved in that meeting?

A The students had organized an agitation to diversify Yeshiva Program.

The Yeshiva Program is only Talmud, essentially.

[3719] In fact, they had a sit-in, and it was—we had a very enjoyable time then.

And they wanted to diversify the Program, and set up from nine to ten slots, that they be able to have other subjects taught, like Bible, practical law.

It should become mandatory, an integrally part of the Program.

It was such a serious matter, we spoke to the members of the faculty individually, and then we called a meeting.

The faculty, by and large, overwhelming, I should say, I can't say unanimously, but overwhelming, was essentially impositioned to the mandatory requirement here, and to the whole idea that a Yeshiva Program ought to be diversified.

They felt it was opposed to the negotiation of what a Yeshiva Program is.

And, I mean, that's what happened at the meeting.

Q What was the decision of the faculty with regard to the Program of—

A The decision was to allow optional programs, other than the optional programs which I mentioned before, which the member of the faculty can do on his own, which is not officially set in our office, anyway.

But we have, for example, Bible classes that are [3720] given twice a week.

We have a Practical Law, although there are members of the faculty who do it on their own. Do it in different ways.

And they're entirely optional and open-ended, open to any student.

And, in that way, we avoided the mandatory feature, and it did not really become integrally part of the Program.

Q Is this essentially in keeping with the concensus or decision of the faculty, as to what should be permitted?

A Yes.

* * * *

Q (By Mr. Bodner) Are there any other areas in which decisions are made with regard to academic matters concerning the faculty, where you do or do not utilize the concensus of the faculty before you make the decision?

A No. No.

[3721] Q Because I did state the question somewhat ambiguously, by, "No," you mean the faculty is consulted with regard to the academic decisions affecting the school?

A Certainly.

Q Can you give us any other example, if you would, Rabbi Charlop, of a decision made by the faculty, with the concensus of the faculty, which affects the Yeshiva Program?

A The college program, for example, Yeshiva College program ends at the end of May, the beginning of June.

Last few years, we have extended the Yeshiva—

Usually, for many years, anyway, the Yeshiva Program ended the same time as the College program did.

We felt, members of the faculty were always complaining that they needed more time, that they would—that we ought to extend the sessions two weeks, two and a half weeks, depending upon the year, beyond the calendar, the College calendar.

And we discussed it with all the members of the faculty.

Q What was the decision of the members of the faculty?

A The faculty, they were all unanimous that it ought to be done.

[3722] Q Was this decision of the faculty implemented, carried into effect?

A Yes.

Q This has been policy of the—

A Yes.

Q (Continuing)—of the Program?

A Actually, it's experimental, because no one really knows how—

Many students live out of town, go away, and then the question is, how many do come, how much show up. What is the question of discipline in this kind of situation.

So, the faculty felt that the experiment ought to be tried.

Q Do the faculty in your school have a designation in lieu of rank, that is, generally given to them?

That is, how are they referred?

A Rosh, R-O-S-H, Yeshiva, Y-E-S-H-I-V-A.

Which means, literally, head of Yeshiva.

I think it's very interesting that we have thirteen heads of the Yeshiva, in the Yeshiva Program, because every class, in itself, is a Yeshiva assigned to itself, precisely because of the—

It's a world unto itself, to which the—where the master's master of his own home.

[3723] Q The master, in this case, being—

A The Rosh Yeshiva.

The only way you can have a master-deciple kind of relationship.

Q With each individual Yeshiva, or each individual course, does the faculty member then occupy the rank of master, or head?

A Yes.

Q Is that with regard to all the decisions affecting that class?

A Yes.

Or that group, or that world, or that Yeshiva.

* * * *

CROSS EXAMINATION

* * * *

[3742] Q Is it then true, then,—

Is it then true that there are—there is no [3743] promotional track for a man appointed as a Rosh Yeshiva?

A There is a promotional track.

Q What is that track?

A The track is going from a first year level, to a second year level, to a third year level, to a fourth year level.

Q So, each year seniority brings with it, you're saying, a promotion?

A Seniority brings promotion, yes.

Sometimes people are promoted because of—beyond seniority.

Very rarely, I won't say absolutely no, very rarely have we overlooked seniority.

* * * *

[3746] Q Do faculty get a raise each year?

A Well, since I've been here, the faculty raises have been commensurate with the raises of the rest of the University.

Q Have they been comparable or commensurate with those of Yeshiva College, particularly?

A Yes.

But—I'd say, yes.

It may not have been exactly the same, but, overall, it's yes, because we had to make a straight raise, so we computed an average, whereas an assistant professor got a certain raise, an associate professor got a certain raise, an instructor got a certain raise.

We computed an average, and gave everybody the [3747] same raise.

Q Those raises were then keyed into—

A At the same time the College got it.

Q They were keyed into the settlement reached between the Welfare Committee of the Yeshiva and Stern Colleges, and the University?

A Yes.

* * * *

[3748] You indicated that you hired Willig, Reichman and Bronspigel?

A Yes.

Q When did you hire them?

A 19—197—

In June or May of 1973, or summer of 1973.

This is their second year.

[3749] Q Can you describe that hiring process, briefly?

A Yes.

We felt that we needed new blood in the institution. There wasn't really any loss of faculty, but just as I told you, some faculty members were ineffectual.

We felt that we can't do anything to them, we just give them small classes, but we need to have effective men, it means recruitment, many things.

I may say, in digression, that the fact of the matter is now the classes are huge. They have made—

Their classes are—

Not huge in the sense of numbers, but they're very—

Q Try not to digress, Rabbi, and just answer the question, please.

A What was your question again?

Q If you can describe, briefly, the hiring process.

A I didn't mean that—

Q How these persons applied, how were they—how their merits as hiring—

A During the course of the years, various people apply for positions, and I usually tell them, there's nothing available.

Q To whom do they apply?

[3750] A To me.

I tell them, there's nothing available, or there may not be anything, or there may be something available.

Then, when the need for new blood or new men presents itself, and only presented itself once in my tenure, and that was a major transfusion.

What we did was, together with the President of the University, acting on this,—

Q Did he authorize and give you permission to fill three new faculty spots?

A Yes.

Expressly, gone through it very carefully.

Q His permission was required?

A Yes, certainly.

That's why I tell you about the whole letter procedure.

Q These persons had applied to you?

A Yes.

Let me tell you, I'm sorry, I'm not digressing at all.

I just want to tell you the process, the way a Rosh Yeshiva is chosen.

You see, a man teaching—You take a man on the faculty, in the College, it's quite conceivable nobody in the faculty of the College ever heard of that man.

[3751] I'm not talking about a graduate school, where a man has made his mark already, but is an instructor in an undergraduate college.

When we choose a new man, we look over the applicants we have.

If, among those applicants, there are young men, we hardly ever take anybody but a young man, and there's a young man who's in the—who's in the—who's well known—

What is that?

HEARING OFFICER: Okay.

Go on.

A (Continuing)—We look through the applicants.

Then we look through the community of young people, of people who have begun to talk about, that this man is going to make a good Rosh Yeshiva.

Because it's a tremendous responsibility that we impose upon him. Regardless,—

It's not reflective at all in his salary.

Because the influence of a Rosh Yeshiva in the overall community can be immense.

Q Again, I'm just asking—

A I'm telling you what happens.

Q I'm asking you for the procedures.

Who interviews, who discusses it, who makes the [3752] final decisions?

A This is something that is altogether different.

I would go to Dr. Belkin, the president of the University, and I'd tell him that I think we need new blood.

This is exactly what I did, I think we need a major transfusion. He says, how many people you think we need. I said, we need three good men to come in, two minimum, three good men. To shake up this—To shake up the whole institution, to give it new blood, new vitality.

He says, all right, do you have three men in mind. Then I said, well, I have a group of people in mind, and then we discussed, and he says, who do you have in mind. And I tell him, these are the people we have in mind, all of them, with the exception of maybe one or two, maybe I discuss ten people with him, are well known to him, because they are well known to the entire Torah community, to the entire Yeshiva community here, that these are young men who have made their mark in their early studies, are prodigious. Some through publications. This is before they're appointed.

So, through the fact that they are—they heed what we call Chaborut, small groups of students on their own, without pay, for years.

[3753] That they're members of higher institutes of Jewish learning, such as K-O-L-L-E-L, and these names are almost household names.

They may be only 23 or 25 years old, but everybody in the learning community knows who these young people are.

Then, out of this designated group, we say to ourselves; who is the best.

Q Who is we?

A Dr. Belkin, the President and myself.

Every one of these names, you have to realize, is well known to every member of the faculty, one of the considerations, most important consideration is, is it credible.

To become a member of our faculty, and I didn't want to answer your question before, but it is a prestigious institution, and it's probably the most prestigious, not in the institution, but throughout the world, of this sort, very important, very great achievement.

So, it has to be credible.

And, will it be acceptable to the faculty.

We can't take any Tom, Dick and Harry and stick him on the faculty.

That's the way it's done.

[3754] I must say that the new appointments were received with approbation. And they were discussed, in fact, as much as we could, there was some questions of

discretion, some people who were interviewed for reasons, didn't want it to be—

Q Excuse me,—

A Some people didn't want it to be known that they were being considered, in case they would not be—

Q Who conducted the interviews?

A I did.

Q And after interviewing the candidates and finding out their respective availability, did you then consult again with President Belkin?

A Yes.

Q Was it finally President Belkin who approved the choices that you had made?

A Yes.

* * * *

[LEO LANDMAN—DIRECT EXAMINATION, RESUMED]

[3762] Q (By Mr. Bodner) Dr. Landman, when we left off yesterday when you had to leave to attend a funeral we were on Employer's Exhibit 141, and I would ask you again to refer your attention to that exhibit which is the list showing the faculty members of the committees of the Revel and Fischel Schools.

Would you briefly describe for us the function of the Welfare Committee.

A The Welfare Committee discusses various problems concerning the faculty.

It meets at its own discretion.

It deals with mostly the relationships between itself and the University and the School.

Q When you say various matters concerning the faculty, do these matters include what is normally characterized as interests in salary remuneration and related conditions?

[3763] A Correct.

You have to remember that it is a very small school and very intimate school and as such the committee meets infrequently, but at its own discretion.

It really has had not that many problems, as far as I know, at least.

* * * *

Q I will not go through each of the committees because some of them are reasonably self-explanatory, but I will ask you about those that we have not had previous reference to or by virtue of summer committees in other schools.

In particular you mentioned yesterday that three of the committees can in a sense be considered as one and that is the Committee on Valuation, Degree Requirement and Ph. D Re-evaluation.

Would you tell us the functions of these three or three parts of the Committee?

A Yes.

[[3764] Well, one is a Committee that dealt actually and still is dealing with the requirements for the Ph. D.

We have recently begun to revise the requirements at least as far as the faculty is concerned.

Of course, subsequent to this it was to be presented to the Executive Council and into Albany, but at this time the faculty has already decided that the number of credits, for example, for the Ph. D. should be lowered from 90 to 75.

The structure of this new number will, of course, still be worked on.

Some of the problems have to be ironed out yet and the Committee deals with it and it is presented to the faculty.

The Committee also is concerned, at least in one of its hats, is also concerned with the fact that we have had two degree, two doctoral degrees up until a few years ago, and many of the members of the faculty still feel that a second degree, a second doctoral degree ought to be acquired by the University.

Now, what this degree should be, what kind of a degree and so forth it still being looked into by the Committee.

* * * *

[3766] Q (By Mr. Bodner) Dr. Landman, do the faculties of the Revel and the Fischel Schools meet as a body to discuss and make decisions on matters of interest to the faculty?

A Yes, they do.

Q Are there written bylaws governing such meetings?

A No, there are not.

Q Are there general minutes taken of such meetings?

A Yes, we do take minutes.

Q When was the last meeting that the faculty of the Revel and Fischel Schools, if you can recall?

A The end of January.

I don't remember the exact date.

Q I show you this for identification and I ask you [3767] if this is a copy of the minutes of the meeting of January 21, 1975 of the Revel and Fischel Graduate School?

A Correct.

These are the minutes.

MR. BODNER: I would ask that this be marked for identification as Employer's Exhibit 143.

• • • •

[3768] Q Dr. Landman, looking through the items covered on this meeting I notice Item Number 7 refers to the following, a suggestion that research seminars should be offered by departments with a comment "The setting of standards is in the hands of the faculty."

Would you tell us what was involved in terms of the setting of standards by the faculty with regard to research seminars?

A Well, the suggestion was made that research seminars should be handled but the aims of the seminars or the content of the seminars or how they are to be run, that is up to the faculty itself.

Q Does the faculty have the final decision making [3769] authority on these matters?

A Correct.

Q In addition to being true with regard to seminars is this also essentially true with regard to classes conducted by the faculty?

A The actual courses? Yes, yes.

In fact, every course has to be approved by the faculty.

Q We are going into a little more detail about that in a moment, but also with regard to these minutes I notice reference to the revised Ph. D. program with the

notation that the revision was seconded by a faculty member and "Passed by the faculty."

Would you tell us what was involved in the revised Ph.D. program.

A This I mentioned before, the fact it had decided to lower the number of credits from 90 to 75, and this passed.

There are still some additional problems that have to be discussed and the faculty will, at the recommendation of the committee, will again discuss it at its next meeting.

Q And the reference to the fact that it was passed by the faculty, is that intended to indicate that the decision making authority rests with the faculty?

A It is.

[3770] Q So has this passage by the faculty now become the policy of the School?

A It is the policy of the School.

It hasn't been approved yet by the State, but as far as the School is concerned this is what we want.

• • • •

Q (By Mr. Bodner) Dr. Landman, are there in addition to the faculty members, meetings of departments within the Revel and Fischel Schools?

A There are, but again very rare because of the small size of the school.

Many of the things are really discussed by the faculty as a whole.

Of course, the individual members of departments, [3771] whenever it concerns them or their field, they have large input and, of course their advice and suggestions are very important to the faculty.

But they do have meetings by themselves too.

• • • •

Q Dr. Landman, who is the decisional making authority within the School and the University with regard to academic matters such as curriculum requirements, degree requirements and admissions standards?

A The faculty.

• • • •

[3776] Q Are faculty members expected to spend time with students beyond their regular classroom hours in the Revel and Fischel Schools?

A They are.

Q Would you tell us, is there a minimal amount of time they are supposed to spend with students and, if so, what that is?

A Yes, at least one hour a week.

Q Is that equally applicable to full time and part time faculty?

[3777] A Yes, it is.

Q Dr. Landman, do faculty members in your School perform scholarly research functions?

A Yes, they do.

Q And do they publish articles?

A Yes, they do.

• • • •

[3791] Q Dr. Landman, leaving the subject of part timers and turning to the managerial, supervisory and related authority of the faculty, let us say, a matter of interest arises to the faculty.

How does the faculty express its views on such matters?

A At faculty meetings.

Q How are decisions made at such meetings?

Is it by vote, by consensus or some other?

A Theoretically speaking, of course it could be by vote, but again because of the very small nature of the School it is usually arrived at by consensus.

Q Where there is a clear consensus of the faculty on the matter of interest in the School is that consensus effectively regarded as the decision?

MR. SCHECTMAN: I'm going to object to these questions now in that they are overbroad and asking for conclusions and there may be many matters of interest, be it anything [3792] from the war in Viet Nam to the funding of the Universities to office space for particular faculty members.

The question in such breadth, asking for such a general conclusion I think is improper.

MR. BODNER: I did intend by one of the phrases in the question to indicate with reference to matters

affecting the school and therefore obviously excluding their decisions or their expression of views on things such as Viet Nam or the matters beyond the scope of the individual School.

But I have no objection to Dr. Landman making clear—

HEARING OFFICER: Cut it down specifically as possible.

I think you can avoid a lot of the objections.

Q (By Mr. Bodner) Dr. Landman, on the matter of example of curriculum, where there is a clear consensus of the faculty has that consensus ever been overridden by anyone in the School?

A Not to my knowledge.

Q Or by anyone in the University?

A Not in my time, no.

Q Is that consensus generally given the effect of a decision in terms of the School policies?

A Yes, it is.

[3793] Q Is the same true with respect to admissions criteria?

A Yes, it is.

Q And with respect to degree requirements, apart from the legal requirements established by law?

A Yes.

Q Has there in your six years been decisions made with regard to the introduction of new courses or the elimination of existing courses?

A Yes.

Q Could you give us an example of such a matter, describe how the decision—

A I can't remember the names of the courses, but if a professor wanted to give a course he presents this course to the faculty and the faculty then will listen to the course description and decide on the basis of need for such a course, whether it should or should not be given.

Q If the faculty decides that such a course should be permitted has it generally been permitted?

A Yes, it has.

Q If the faculty decides such a course is not needed or not be permitted is that decision also given effect?

A Yes, it has.

Maybe revised sometimes, there may be certain objections that the faculty has to a course such as [3794] overlapping or something of that nature, and if it is then revised it might be approved, or it may not be.

Q Let us turn to the individual faculty member, more specifically who determines how a class should be taught?

• • • •

A Well, it is completely in the hands of the faculty member.

Q Does the individual faculty member have discretion as to which students should be admitted into his class?

[3795] A Yes, he has.

Q Can an individual faculty member refuse to accept certain students?

A Yes, he can, for a cause.

Q But assuming he has valid reasons?

A Yes.

Q And he makes that decision?

A That's right.

Q Does the individual faculty member mostly have authority to decide within the range of classroom availability and student availability when the courses are to be offered?

A Yes, there is a form which we send out before the class schedules are made out asking each professor which courses he will give the following year and when he would prefer to give these classes, and within the framework of the School itself, and we have certain programs that are intertwined with the Undergraduate School.

If this is feasible we certainly follow what the professor wants.

Q And when the range of discretion, the decision is made by the individual faculty member?

A Yes, that is correct.

• • • •

[3797] Q Apart from those legal requirements, requirements such as classroom and student availability, does the School exercise any control over the means by which the faculty members carry out their work responsibilities?

A None.

If some complaints are made by students to us we will sit down with the professor and talk to him but, I mean, this is merely in terms of advising him of what happened and to what the complaints are but what he does about it is really up to him.

Q You mentioned that one of the criterion expectations in your School of both full and part time faculty is scholarly research.

Does the School impose any specific requirement on what scholarly research is to be done by a faculty member?

[3798] A No.

In other words, we don't determine that he has to do research in this particular area of his field, but it is up to him completely.

Q Is both the area in which he does research as well as the methodology up to the faculty member?

A Yes, it is.

Q This is true for full time and part time faculty?

A Yes, it is.

Q You also mentioned, Dr. Landman, in previous testimony that faculty members serve on various committees or serve as School representatives to various University bodies.

Does the School require the placement of faculty members on specific committees?

A Well, I don't know what you mean by require.

It is expected that a faculty member serve on committees.

Q But as to the choice of which committees or—

A That is up to the faculty.

Not every member of the faculty serves on a committee, but he is required to serve if he is asked.

Q Dr. Landman, you have chairmen in your Schools; is that correct?

A Yes, we do.

[3799] Q Would you describe the role of the chairman in the hiring of full time faculty members?

A Well, he recommends candidates, names of candidates when a position becomes available in his field.

Q In his field, generally meaning his department?

A His department, yes.

Q Where the chairman makes a recommendation is that recommendation generally given effect in your experience?

A Yes.

Q Where his recommendation is negative are you aware of any instances where a faculty member has been hired over the negative recommendation of the chairman?

A Not during my time.

Q Would you tell us if there are any differences or if the same is essentially true with the hiring of part time faculty members?

A Exactly the same.

Q With regard to the chairman's negative recommendations, has it ever been overriden with regard to a part time faculty?

A Not during my stay.

Q Let us take one of the chairman in one of the larger departments, Dr. Lewin in the Modern Jewish History Department that is listed on Exhibit 139.

Do you recall within your approximately six years [3800] at the Institution any examples of Dr. Lewin involved in the hiring of a part time faculty member and if so, can you cite such an example?

A Yes.

For example, Dr. Nussembaum was hired a few years ago.

He is a part time man.

Of course he is in American History and so Dr. Lewin and Dr. Grinstein really cooperated there.

Dr. Lindenthal, for example, was also hired a few years ago and he is in American Jewish Sociology, and

in this particular case Dr. Lewin and Dr. Goldberg cooperated.

Q Were the faculty members whose names you mentioned recommended for hiring by the chairman?

A That is correct.

Q Were these recommendations given effect?

A Yes, they are on the faculty.

Q Was the School's decision to hire significantly affected by the recommendation of the chairman?

That is, would they have been hired absent the recommendation or with the negative recommendation?

A With a negative one or without the chairman I doubt it.

Q Dr. Landman, accumulating all the time spent by [3801] chairmen, such as Dr. Lewin on an annual basis to carry out his functions with respect to the hiring or other related functions, or faculty in his department or part time faculty in his department, can you estimate the amount of time he spends in carrying out such functions with regard to part time faculty?

A Are you talking about specifically in terms of hiring of faculty?

Q Yes, can you make, can you reasonably make an accurate estimate of such time?

A I really can't because how do you estimate the time spent in recommending somebody and interviewing the individual?

I don't know how much time this would be.

Whatever it takes to do that, that is the time he spends.

Q Would it be likely the amount of time would significantly vary from one year to the next?

A Oh, I think so.

Q Is it your general experience that the amount of time so spent over part time faculty members involves more or less or approximately equal to 50 per cent of the individual's total work time if you can make such stipulation?

A Do you mean over and above what a part time faculty [3802] member spends?

Q No, if you can take the total work time of the chairman would you be able to estimate whether he spends

clearly less than 50 per cent, more than 50 per cent or approximately 50 per cent?

A I would say less than 50 per cent.

The School is a very small School and the chairmen, really have very—as chairmen they do very little in terms of time.

In other words, the recommendation of the chairman would come to the faculty and the faculty as a whole then would make certain decisions.

This is again due to the nature of the School but, of course, the recommendation of the chairman would be there and his time spent and I don't know how much it is, but certain years it is probably much less.

Q Are chairmen elected for specific periods of time?

A No.

Q For how long have the chairmen indicated on Employer's Exhibit 139 acted as chairmen, to your knowledge?

A Well, for a goodly number of years.

I don't know how many each one offhand, but I could check it out.

It's been quite a while.

[3803] Q Have any of them been there in the past six years in which you have been connected with the School as chairmen, to your knowledge?

A I think all of them, yes.

Q Do chairmen receive a stipend for their function as chairmen?

A No.

Q Do they generally receive a reduced course load?

A It is taken into consideration, yes.

Q Their chairmen functions are taken into consideration in terms of their work hours?

A Yes.

* * * *

[3804] Q Have there been instances in recent years, Dr. Landman, where the views of the chairmen on the hiring [3805] of a particular faculty member has differed from the views of the faculty in his department?

A Well, it really wouldn't happen.

The nature—as I said before, the nature of the School is such that a consensus is reached.

If it isn't reached at a meeting it is reached at rump meetings where people get together and they work together and somewhere along the line there would be a give and take and a consensus will be reached.

* * * *

CROSS EXAMINATION

* * * *

[3809] Q (By Mr. Schectman) How are promotions made for the full time faculty from one rank to another?

A Well, the Dean recommends these I believe to the President.

Q And the President sends a letter appointing them to [3810] the higher rank?

A I think that is done.

* * * *

[3824] Q Are any actions taken by your faculty with regard to academic crediting or major acamedic policies reviewable by Vice President Fishman?

A Reviewable? No.

* * * *

[3833] Q Are there not University limits on when and where classes will be conducted?

A Limits?

Q For instance, as to scheduling, calendar and so forth?

A No. There are certain needs that the University has.

As I said before, we had, for example—we have a BA-MA Program whereby undergraduate students can take courses both for the BA and for the MA so obviously because of these students certain courses must be given at certain times.

But even then there is a great amount of leeway and the individual professor's input and desires are certainly taken into consideration.

Q But the academic calendars of the University for instance would govern as to scheduling courses, would it not?

A Unless the individual professor absolutely cannot [3834] make a particular course and we have again, because of the smallness of the School, we fit down and we talk to them and find some time during that long day that we find a mutually agreed upon time.

Q And usually that would be done with the Dean?

A Well, I am usually the one who handles the course schedules and will sit down with the individual professor and we will work it out.

Q That is in your administrative capacity as secretary of the faculty?

A Correct.

Q With regard to University's holidays, for instance though, would that affect whether classes would not be offered?

A As far as I know we have never scheduled—the Registrar's Office takes care of all of the holidays and blocks these dates out so we don't schedule anything.

Q Is there not an office at the University that indicates to you what classrooms and what space is available for teaching?

A Yes, but individual professors—for example, in my own particular case I was scheduled for a certain room and I must have certain books available to me in my courses and only a particular room had those books, so I was reassigned.

[3835] Q You requested the reassignment?

A Did I request it? Yes.

Q From whom?

A From the office that assigns it.

Q What office is that?

A I think Blaizer's office.

I don't know what it is called.

Q Do you know his title?

A No, I don't know.

Q Is that the Building and Grounds Office of the University?

A I really don't know what his title is.

MR. BODNER: I think if I can clarify—

MR. SCHECTMAN: I think if we refer to the University's catalogue in evidence, I believe it is Employer's

Exhibits 22-A through E as annexed to Board's Exhibit 2, this will indicate that Mr. Jacob Blaizer is the Director of Buildings and Grounds.

Q (By Mr. Schectman) You indicated Dr. Bernstein is an invalid?

A Yes.

Q Accordingly his courses are conducted at his home?

A Yes.

Q He does not come to the University?

A That is correct.

* * * *

[3838] Q With regard to hiring faculty is it not true that President Belkin has the final say in that regard?

A I believe that is true, yes.

Q When a member of the faculty is hired you indicated that it was a consensus of the faculty as a whole that he should be hired; am I correct?

A Yes.

Q You indicated that department chairmen may recommend someone for hiring?

A That is correct.

Q May other members of your faculty as well recommend someone for hiring?

A Oh, yes.

Q Do other members of your faculty recommend persons for hiring?

A At times.

[3839] Q How many part timers were hired last year?

A Last year?

Q How many faculty, how many new faculty were hired last year?

I'm sorry, how many new faculty were hired for the current academic year?

A I can't think of any right now.

Q So that the amount of time in hiring new faculty for this year spent in the last academic year would have been negligible; am I correct?

A Correct.

Q And you have indicated that one person has been hired for the coming academic year?

A That's right.

Q Can you estimate the amount of time you spent in that process?

A Personally?

Q Yes.

A I didn't spend any except—all right, I take it back.

I was at one meeting when it was discussed at the Faculty Executive Committee.

I was also preesnt at the faculty meeting when it was discussed.

Q So that would be a total of a few hours maybe?

[3840] A Something like that.

Q Were there any department chairmen involved in this?

A Yes.

Q And spending about the same amount of time?

A I imagine so, perhaps a little more.

In this particular case again Dr. Bernstein is the Chairman of the Bible Department and the man I'm referring to is a man of the Bible Department, so that of necessity much of the leg work was done by others, but it was with the consultation of the specific chairman.

Q Would it be fair to say that a department chairmanship at the Bernard Revel School is an honorary position?

A No.

* * * *

[3844] Has Dr. Belkin ever hired any member of the faculty of Revel without the approval and recommendation of the faculty of the School, to your knowledge?

A Not during my time.

Q Where there was an individual to be hired and the faculty recommended this specific individual to Dr. Belkin, to your knowledge has Dr. Belkin ever refused to accept the recommendation of the faculty?

A Not to my knowledge.

* * * *

[3848] Whereupon,

JOSEPH GITTLER

was called as a witness by and on behalf of the Employer, having been first duly sworn, testified as follows:

HEARING OFFICER: Be seated.

Rabbi Gittler or just Dr. Gittler?

THE WITNESS: Dr. Gittler.

[3849] HEARING OFFICER: Okay.

Would you give your full name to the reporter?

THE WITNESS: Joseph B. Gittler.

HEARING OFFICER: Off the record for a moment.

(Discussion off the record.)

HEARING OFFICER: On the record.

Mr. Kramer.

DIRECT EXAMINATION

Q (By Mr. Kramer) By whom are you employed?

A Yeshiva University.

Q What is your present position, Dr. Gittler?

A Dean of the Ferkauf School and university—

Q Dean of the Ferkauf School?

A Yes.

Q Does that have a full name?

A Dean of the Ferkauf School of Humanities and Social Sciences. Ferkauf School.

MR. KRAMER: Can we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q By Mr. Kramer) Continue.

A And university professor of sociology.

Q How long have you been dean, Dean Gittler?

A Since September 1966.

[3850] Q Are you now a member of the faculty at the Ferkauf School?

A I am a member of the university faculty.

Q Would you explain what you mean by that?
A I have a university professorship of sociology.
Q Do you specialize in any particular area?
A Yes.
Q Would you tell us what?
A Sociology, ethnic relations, social change and sociological theory.
Q When did you last teach a course at Yeshiva College—Yeshiva University?
A This last fall semester.
Q What course was that?
A Sociology of the Jews in the United States.
Q In what school was that course offered?
A It was a consortium that included the Ferkauf School and other schools in the City.
Q Just so the record is clear, Dean Gittler, that was —that course was taught in the fall of 1974?
[3851] A Yes.

* * * *

[3852] Q Okay.
I notice, Dean Gittler, the first colum of this exhibit is headed "Department."
Is your school in fact divided into departments?
A Yes.

* * * *

[3858] Q (By Mr. Kramer) On what basis, Dr. Gittler, are part-time faculty members generally hired?
A A department will have X amount of money budgeted to them for part-time faculty to teach specific courses or other responsibilities and, on the basis of departments, specific course offerings for people other than full-time faculty. They are then hired to teach these specific courses.

* * * *

[3865] Q (By Mr. Kramer) Are there bylaws or other formal documents of governance for the Ferkauf School—
A Are there bylaws or other documents? There are bylaws.

Q I show you, Dean Gittler, Petitioner's Exhibit 6, [3866] which is appended to Board Exhibit 2 in this proceeding.
Would you tell us, if you know, what that document is?
A Yes.
These are the—these are the bylaws for the Ferkauf faculty government.
Q Would you tell us, to the best of your knowledge, when this document was promulgated and by whom?
A The—prior to 1965, certainly prior to 1966. I believe prior to 1965, a faculty committee worked up and devised these bylaws for faculty government at the Ferkauf School, which committee was then—which was then submitted to the faculty—the Ferkauf faculty at that time, and either modified, but ultimately approved.
It then went to the dean, and then to the president, and approved.
Q Now—Go ahead.
A The document also includes, towards the end there, several appendices, and these appendices—these appendices—these appendices the dean included as he—as he otbained them from the faculty meeting minutes since 1965.
Q Now, turning to page 3, Dean Gittler, perhaps you may remember a few minutes ago I asked you whether you were a member of the faculty of the Ferkauf School, and you told me you were a member of the faculty of the university.
[3867] Under these bylaws, are you also a member of the faculty of the Ferkauf School?
A According to these bylaws, yes.
Q Now, are part-time faculty members members of the faculty for purposes of these bylaws?
A An associate members.
Q That is provided for on pages 3 and 4; is it not?
A Yes.
Q Now, what is the principal governing body, or governance body of the Ferkauf School?
A On academic matters, the faculty.
Q Would that be the faculty as a whole?
A Primarily the full-time voting faculty.

Q As a whole?
A As a whole.
By "a whole," you mean full-time faculty members?
Q Meeting as a whole.
A Yes.
Q Do part-time faculty members also attend those meetings?
A No, not—very infrequently. Somebody might attend.
Q Are there regular meetings of the faculty?
A Yes, four times a year.
Q That is provided for, is it not, in the bylaws?
A I think so. Twice a semester.
[3868] Q Do you have the—you have the privilege of calling special meetings, do you not?
A I do. And the—I think the steering committee does too.
Q Would you tell us what types of matters—and I don't mean now in broad conceptual terms, but in more illustrative particular terms—what types of matters are dealt with by the faculty meetings as a whole?
A The—almost at every faculty—again, faculty meeting, or the faculty meeting as a whole, the faculty deals with all the matters that the various committees have dealt with prior to the—to the general faculty meeting, if there is something to deal with.
The names of these committees would connote the types of things that the faculty deals with, such as—
Q Tell us what faculty standing committees there are.
A I hope I don't miss any.
Steering committee, welfare committee, promotions committee, library committee, research committee—I can look here—curriculum committee.
I think that does it.
Promotions committee, I beg your pardon.
Q You did mention, did you not, the committee on standards?
A I may not have. Committee on standards.
[3869] Q But there is one, is there not?
A Yes.

Q Now, let's get back to my question.
Would you give us some examples of the type of thing, things, that are dealt with by the faculty meetings as a whole?
A Yes.
Q Separate and apart, may I add, from welfare matters.
A Every new program, academic program, or any—or every major change in an academic program, in the curriculum, is acted upon by the general faculty, for the faculty as a whole.
The general faculty also acts on basic academic standards of the school, such as foreign language requirements, such as degree requirements as recommended by various departments, after it goes through the curriculum and/or standards committee.
Another illustration would be that the general faculty acts on—or has acted on the recommendation from the welfare committee on matters that they want to bring before them.
Is that enough illustration?
Q No. What other items—putting aside welfare items, what other type matters are handled by the faculty as a whole?
[3870] A The faculty will act on changes in the criteria for promotions, if there are to be changes, since the '65—1965 approval of the bylaws.
The faculty used to act on the actions of the research committee. Now that committee is somewhat dormant.
Q Would you explain why this is so, why you used the term "used to act"?
A The research committee was primarily concerned with the distribution of money to departments or individual faculty members for research pilot studies, seed money for research. And, since about '68 we haven't had any money.
Q When you did have money, what was the function of the faculty as a whole with respect to that?
A The—I remember asking the research committee to set up criteria for the distribution of this research

money, which they did. And I recall that the research committee brought these criteria to the faculty to get approval, to get action.

Q Now, you used the term "used to" in your testimony.

Did you use that because research funds have dried up?

A Yes. Ferkauf research—Ferkauf funds for research.

Q Assuming those funds were to become available from Federal, State or other donee sources, would the research [3871] committee and the faculty as a whole have the same authority as it had in the past?

A No.

I said Ferkauf money. As far as Federal money is concerned—

Q Go ahead.

A I stated Ferkauf money. As far as Federal money, which comes usually, or only, through grants, that did not go to the research committee.

Q By Ferkauf money, you mean what?

A University funds.

Q Assuming such funds were to be made available again, would these committees still have authority?

A I would reactivate—or the research committee would become reactivated.

Q It has not been stricken from the bylaws?

A No.

Q And the faculty as a whole would have the same authority as it previously had?

A Sure.

Q Would you give us some other examples of matters that are handled by the faculty as a whole?

A I—

Q Would they get involved in tenure decisions, promotion decisions, matters of that type?

[3872] A No. The promotions committee reports to the faculty its actions and decisions. The promotions committee would seek faculty action for criteria of promotions.

Q How about tenure?

A There is no tenure committee from the faculty. I appointed a tenure council, consisting of faculty, tenured faculty, and they evaluate individuals for tenure appointments.

But there is no—there is no responsibility or obligation on the part of this tenure council, because the bylaws don't call for it, to report to the faculty at large.

Q Now, let's return for a moment—you have told us that every change in program and every new program must be approved by the faculty; is that correct?

A Major change.

Q Major change.

Have you ever instituted a major change in program or a new program without obtaining the faculty's approval?

A No.

In furtherance to your question, the steering committee always presents to the general faculty meeting, or to the faculty at large, or on the whole, their slate nominees for members of the various committees, and the faculty, A, acts on these nominees, and, B, elects from [3873] the slate.

Q Dean Gittler, you have been dean since 1966. Have you ever implemented a new program or changed a program in major fashion without obtaining the approval of the faculty?

A No. And the curriculum committee.

Q You have told us that the faculty as a whole has functioned with respect to foreign language requirements.

What do you mean by that?

A There are—there were and there still are foreign language requirements for all student doctoral candidates. The—down the line. That means even before I became dean, the standards committee, I believe, was responsible for setting up a long consultation with the registrar and with other relevant parties—and I use that term because I wasn't here at that time—set up foreign language requirements.

Since I became dean, on more than one occasion, the standards committee sought to change these requirements, and the standards committee brought it to the general faculty for action, approval, modification.

Q Did the faculty approve?

A I remember one time the faculty told them to reconsider some things. Another time they did approve the recommendations.

[3874] But it always depended for it to be implemented on the action of the faculty.

Q Did you—Have you changed these requirements on your own?

A No, never.

Q Dean Gittler, do you feel that you have the authority to go out and change these requirements your own without getting the faculty's agreement?

A I don't know, but I never did.

Q Not in almost ten years?

A Since '66.

Q I see.

Now, you have told us that the faculty as a whole passes upon degree requirements.

What do you mean by that?

A The —X number of course credits are needed for a degree. Certain clustering of courses are needed for a degree in a given program. So, the—these are illustrations of requirements.

These are brought to the curriculum and/or standards committee and ultimately brought to the faculty for action.

Q Dean Gittler, does the—do the new programs or major changes in programs, the foreign language requirements and the degree requirements of your school, all taken together, affect decisions of students as to whether [3875] they will come to your school?

A I guess so.

Q You guess so, or it is your educated view that it is so?

A You want me to answer it my way?

Q Yes, please.

A I think students come to the Ferkauf School because of the programs offered, the content of the programs offered, and the faculty that we have.

It could be that, if we change a program, it may displease prospective students.

I have tried to see to it, but I didn't have difficulty that way, because I think the faculty thinks that way, that giving a student, while a student is in matriculation, if a program is changed, that he has the option of pursuing the program that was in existence when he first came.

Q That required faculty approval, did it not? You went to the faculty on that?

For him to stay to his old program. To be grandfathered, so to speak.

A No, we didn't have it. It was—

Q Go ahead.

A We didn't have to. I think it was my understanding that legally he is entitled to it.

[3876] If the student shifts from the old requirements to the new requirements, it is usually an arrangement, a joint arrangement between the department that he is in and the student.

Q All right.

Returning to my question, when you said you guess so, do foreign language requirements affect whether some students will come to the school and some will not?

A It might.

Q And do the requirements that must be met to obtain a degree in your school as opposed to another school have an effect on whether students will come to your school?

* * * *

[3877] A It might. It's the only way I can answer it.

Q It might affect some students and may not affect some others, I assume?

MR. SHECTMAN: I object.

Counsel—the witness has answered the question.

HEARING OFFICER: Sustained.

Q All these requirements taken together, the degree, the foreign language requirement, taken together, to the best of your judgment, as an educator, have an effect upon whether your students will come to your school?

* * * *

[3878] A Every—I think that every applicant for admissions receives a catalogue in which all the requirements are listed for every program.

That must play a role, when he becomes familiar with that, in his decision to follow through, to come to the school, and so on.

And the catalogue—sometimes the catalogue is supplemented by departmental detailed—further departmental detailed requirements in the program that's also sent to the student. And they must play a role in the student's decision.

Q And the graduate schools in other universities with which you, in essence—I use the term loosely—compete also produce catalogues, do they not, and provide them?

A Yes.

Q Those catalogues state degree requirements, do they not?

A Yes.

Q And foreign language requirements, do they not?

A Yes.

Q And they state the program, do they not?

[3879] A Yes.

Q Those requirements at your school are determined by faculty, is that correct?

A All academic requirements at the school are determined by the faculty or its subgroups.

Q Now, you have told us, Dean Gittler, that the faculty has a steering committee.

Is that steering committee provided for in the bylaws that are before you?

A Yes.

Q That's found on page 8, is it not?

A Yes.

Q And the following pages.

Would you tell us, in your own words, however, what the steering committee actually does?

A Since I have been dean, the steering committee has performed two basic, if not only, functions and activities.

One is to—is to provide, not on all occasions, provide the agenda for faculty meetings; and secondly to present the slate to the faculty for membership on faculty committees.

Q You have told us there is a standing faculty committee on standards, and that committee is provided for, is it not, on page—pages 11—

A No, page 12.

[3880] Q —11, 12 and 13 and 14 of the bylaws?

A Yes.

Q Would you tell us, Dean Gittler, what that standards committee has actually done while you were dean?

A The standards—

Q Give us some examples.

A Yes.

The standards committee played the major role in changing the foreign language requirements for degrees from what it was before they recommended the changes.

The standards committee, all through the years that I have been dean, has always acted on the items that I have submitted to them consisting of students seeking a waiver for degree recipients. The—

Q What do you mean by a waiver?

A If a B average is required for graduation, and a student has 2.9, and asks for a waiver, and gives the reason, and the department backs the student, and the department gives the reasons, it's—it usually comes to me, and I send it on to the standards committee; and whatever they decide, that's what occurs, vis-a-vis the student's graduation.

Q Does that have an effect on whether the student may remain in school, or pay additional tuition to the school?

A If he doesn't graduate, and he wants to pursue his [[3881] degree further, he stays in school, if he wants to.

Q And would have to pay, I assume?

A Yes.

Q Unless there is a scholarship.
A Yes.
Q Would you tell us what else the standards committee does?
A The things I mention are the items that they have occupied themselves primarily since I am dean.

Right now the standards committee is engaged in what I consider to be a very important enterprise, in that—and that is to—they're evaluating and looking into the procedures and the standards of oral defense examinations.

Oral defense examinations means the final examination that a student comes up for before he can get his doctoral degree?
Q Is that important?
A Yes, it's very important.
Q Tell us why, please.
A There is probably no—in my judgment, no other hurdle that is as major, as important as the oral defense, which consists of five members, five individuals, examinaing the candidates for his degree.

It involves his dissertation plus anything else that has to do with his competency in the field in which he is [3882] seeking a degree.
Q Does the existence of this—I think you called it hurdle—
A For the student.
Q —for the student, have an effect, at least in some cases, in your experience, on whether a student selects your school as apposed to another?

Are some schools tougher than others in this regard?
A Yes.
Q Now, turning to these bylaws for a moment, Dean Gittler, and more particularly to page 12, does the committee on standards have a function with respect to admissions requirements?
A The admissions requirements, since I have become dean, are primarily devised by the various departments.

From various faculty minutes that I have read when I became dean, the admissions committee—the standards committee did discuss and make decisions and presented

them to the faculty on general admissions to the school.

But, since then, the departments have been primarily involved.

* * * *

[3883] Q (By Mr. Kramer) You told us, Dean Gittler, that departments have a role to play with respect to the admission requirements dealt with on page 12 of Petitioner's Exhibit 6, to Board Exhibit 2, and it states there that these requirements are grade point averages, examinations to be required for admission; and, to state some of them, passing scores on these examinations, interviews and recommendations.

Do departments establish these requirements?
A They way the thing—the way these have actually developed—
Q That's what we are talking about.
A —the departments decide who is to be admitted, given the candidates or the applicant's academic background, by programs and by departments.
Q So—
A So that generic requirements that this implies, if it implies that, for the school is not—has not been practiced now.
Q To the extent those generic requirements are established, they're established by the departments, is your testimony?
[3884] A No. If there were generic requirements, they would be established by the standards committee.
Q What is established by the departments?
A The bases for admitting applicants to their programs.
Q So, whether a student is to be admitted and pay tuition is departmental to a particular—to the school, and be admitted to a particular program is departmental decision?
A Yes.
Q And they—that decision is made by faculty members, I take it?
A In the department.

Q Let's return to page 12 of Petitioner's Exhibit 6, right in front of you there, the bylaws.

There is a reference there to the standards committee having a function with respect to transfer of credit.

Does it in fact have such a function?

A It may have had before I became dean, in setting the overall school transfer of credits permissiveness.

Q What you mean by that?

A That, if a student acquired X number of graduate credits in school A—

Q School A being where?

A Other than Ferkauf or Yeshiva University.

Q Right.

[3885] A —that how many of these credits acquired in another school would be determined by the department or the people in a given program in the department.

With this exception: that I believe there is an Albany requirement that says that not more than a certain number of credits—and to be accurate I'd have to look it up—not more than a certain number of credits can be transferred from an outside institution towards the degree at Ferkauf.

Q Who makes that determination at Ferkauf right now?

A Not more than?

Q Who makes the determination of how many credits are to be transferred, putting aside the Albany requirement? That's a maximum.

A The department.

Q That's members of the faculty?

A Yes.

Q Now, Dean Gittler, would the number of transfer credits to be afforded to a prospective transferee by your school as opposed to another school have an effect upon whether that student would come to your school?

A Yes. That could be very crucial, because, if a student can't transfer a certain number of credits, he may, in his mind, he may lose these credits, he may not come.

[3886] As a matter of fact, there were instances where that sometimes meant that he tried another university, that I know about.

Q It costs tuition dollars to obtain credits, does it not?

A Yes.

Q And the university receives tuition dollars for those credits, if they're not granted on a transfer basis?

A Yes.

Q On page 12 it also specifies that special status admissions—provisional, transient, et cetera, and equivalents—are a function of the standards committee.

Is this really the way it works?

A Again, before I became dean, the categories of provisional and transient and regular, I believe, were set up by the standards committee and/or the faculty in conjunction with the registrar's office.

Q Who is it who decides whether a student will in fact be admitted as a provisional or transient student?

A The department.

Q Does that determination have an effect upon whether the student comes to your school and pays tuition to the university?

A Yes. He may want a different category than that which he was admitted.

[3887] Q Now, on page 13 of this exhibit, under the heading to "course and program performance" are a number of factors from 1 to 10, which, according to the bylaws, are entrusted to the standards committee.

Are these items in fact entrusted to the standards committee, and, if so, which ones?

A Again, the standards committee may have played a role in setting up the grading system before I became dean. But the—but the actual grading of the performance of an individual in a given course is by the instructor.

Q The system, however, was set up by the standards committee.

Would the standards committee be involved in a change in the system?

A Yes, in conjunction with the faculty and the registrar, probably.

We never changed the system since I was dean.

Q Could the system be changed without the approval of your own faculty?

A It's inconceivable.

Q Does the grading system employed by your school have an effect on whether students will come to your school, or not come to your school, as the case may be, or be allowed to stay in your school and pay tuition to the university, as opposed to being asked to leave?

[3888] A It will certainly play a role in whether he'd be allowed to stay in the school.

The grading system is not so much different from any other university; ergo, I don't know whether it would keep him out or not.

Q The course examinations are listed as a function of the standards committee.

What role would they play, if any, with respect to that?

A I don't know. The course examinations are primarily individual instructor, faculty member, or department.

Q And academic—academic averages are listed?

A The academic averages—there is an academic average that's required for graduation. These academic averages are school-wide requirements, down the line.

By "down the line," I again mean when the thing was first set up it was a matter of faculty in conjunction with registrar.

Q Who determines what academic average will suffice for graduation?

A The—

Q The school-wide standard you referred to?

A The average, that—that was determined by standards, faculty and registrar all working in conjunction.

Q And could it be changed without faculty approval?

[3889] A It's inconceivable to me that the faculty wouldn't play a role. Certainly would be brought to the faculty, that change, prospective change.

Q Another standard item on page 13, under the heading "to course and program performance" is academic loads.

What role, if any, did the academic standards committee have to play with respect to academic loads?

A The standards committee didn't play a role in determining academic loads.

There are two aspects to academic loads. One constitutes the definition of what constitutes—what constitutes a normal workload for faculty, full-time faculty member.

This was determined about three years ago by the chairmen of the departments in consultation with their respective departments and brought back to a chairmen's meeting.

That's normal academic loads. In terms of a specific load during any particular semester, this, one, varies from semester to semester; two, is determined intra-departmentally, by chairman, and chairman and his faculty.

Q In the absence of an argument between the chairman and a particular faculty member, the chairman's decision, I assume, would control?

If I am wrong, will you correct me?

[3890] A Yes.

I know of several instances where individual faculty members would have liked to have taught less, but the position of the chairman prevailed.

Q Now, could this term "academic loads" as used on page 13 also pertain to the academic loads of students?

A Academic loads of students was determined also years back before I became dean.

And the—and the normal academic load of students was—was a joint decision, I think between faculty or its committee representatives and its committee and the registrar.

Q Are there academic load limitations at your school for students?

A Yes.

Q Would you tell us just briefly what they are?

A The normal load is 12 credits, which amounts to the equivalent of four courses, three credits in each course. A goodly—some students exceed that, but they exceed that only with permission, permission consisting

of recommendation from the department through its chairman to the dean.

Q Does the question whether a student may obtain permission to take an overload affect whether students remain in school or come to your school?

[3891] A It may affect their staying in school.

But coming to the school, I believe—I am not sure of this—I believe the catalogue says what the usual normal load of credit is.

Q By the way, Dean Gittler, your tuition is stated in what way?

A On the basis of per credit, 75 per credit.

Q That's for a matriculated student?

A Yes; for anybody who seeks credit.

Q Now, it also states that requirements of residence for doctorate, total time spent in studies and normal progression toward the doctorate is a function of the standards committee.

That's item .5 under A on page 13 of Petitioner's Exhibit 6 to Board Exhibit 2.

Is that in fact an area for the standards committee?

A I am aware only of the standards for normal progression toward a doctorate; and that is—that varies with departments.

Q That is established by the departments?

A Yes.

Q Conditions of probation is next in this list.

What role does the standards committee have with respect to that?

A I am not aware of when or whether they set up con- [3892] ditions of probations, but the—but there are school bases for probation, and that must have been set up also down the line by faculty and registrar.

Q What's meant by probation, Dean Gittler?

A Probation means that if they don't perform—because of a performance of a given semester, they are taken—at a subsequent semester they have to perform better, much better, in order to remain as a regular degree-pursuing student.

Q If they don't, I assume they're out?

A Then it may take the course of recommendation for dismissal.

Q These are faculty decisions, are they not?

A The recommendation for dismissal comes from departments.

Q And that comes from faculty members in the department, I assume; is that right?

A Yes.

Q And has—

A Chairman and faculty.

Q And has a financial impact on the institution?

A Those who leave are not paying.

Q Now, point 8 under item A on page 13 deals with enrollment and attendance in courses and withdrawal from courses.

[3893] Does the standards committee, or did the standards committee have a role in establishing standards for withdrawal from courses and for attendance in courses?

A They may have down the line. But right now in practice, right now in practice any requirements for a given ratio of attendance to absences, and what it means in terms of how it affects the student, would be purely a departmental matter, a departmental matter.

Q Are departments free to establish a rule that non-attendance will mean failure in a course and, therefore, no credit?

A They could. But it hasn't happened.

Q They have that authority?

A Right now it could take—it would take the form, in practice, of a student being given an incomplete or being flunked if the instructor thinks that his attendance didn't warrant his receiving a passing grade.

Do I—

Q Yes, you do.

And would you explain what type of requirements exist with respect to withdrawal from courses, and what that means to us as laymen?

A The—it can mean a number of several things.

A student may ask to withdraw from a course because of personal matters, such as illness.

[3894] A student may seek to withdraw from a course because the other courses constitute an overload in his mind.

He may seek to withdraw from a course because he had to seek gainful employment outside the university, outside the school.

He then—there is a form where he asks for withdrawal from the course, and this has to have approval of the instructor and/or the chairman, the dean and the registrar.

Q If the student withdraws, does he—and the withdrawal is approved, as you have just described, would he obtain a credit for the tuition paid?

A No. If he withdraws from a course, he doesn't get credit for the course.

Q How about the tuition paid?

A If he withdraws at time A, he loses so much of the tuition that he paid for it.

If he withdraws at time B—and I don't know how many weeks offhand—and if he withdraws at time B, he may lose more.

If he withdraws after time C, he may lose all the tuition.

Q All right.

Who establishes these requirements for withdrawal as to timing?

[3895] A Right now it is a school requirement, down the line, which I am not aware of. It must have been a school and registrar decision.

Q Established by the school and the registrar?

A This is my understanding, because we never had to deal with it while I was dean.

MR. SHECTMAN: Could the witness clarify, when he says "school down the line," whether we are talking university-wide—

THE WITNESS: By "down the line," I mean prior to my becoming dean.

MR. SHECTMAN: We are only referring to Ferkauf?

MR. KRAMER: Mr. Schectman, if you have a question, go ahead.

MR. SHECTMAN: Are you only talking about Ferkauf now, or university-wide?

THE WITNESS' Ferkauf.

Q (By Mr. Kramer) Do you know who established that school requirement?

A As I say, it was before my becoming dean, which means down the line; and it's my understanding that it was a faculty, standards committee and registrar.

Q Acting together?

A Yes.

Q Now, let's turn to the bottom of page 13, where it [3896] provides that the standards committee is to serve as the final impartial judicial review board when an appeal is raised by students, faculty or administration; the committee shall adjudicate questions concerning these rules pertaining to the maintenance of academic standards and scholarly or professional conduct or students.

Does the committee in fact function in that fashion?

A No. Actually it hasn't.

Q How does it function?

A Relative to this?

Q Yes, sir.

A The—I used to—used to submit to the standards committee every question that arose regarding a student's status at the school.

About a year and a half ago, the chairman of the standards committee told me that they'd rather not deal with those kinds of situations.

So, I set up what's known as a—as a council on appeals and grievances, where these kind of things are taken up.

Q Dean Gittler, now let's turn to the curriculum committee for a moment.

Would you tell us what the functions of the curriculum committee are in practice? What do they do?

A The curriculum committee has done the following: [3897] One, for about two years ending—about two years covering the period, I believe, between '70 and '72, the curriculum committee went through an evaluation of every extant academic program in the school.

By evaluation, I mean they asked for departments—they asked departments to submit the—every—a report on every academic aspect of the program.

By academic aspect, I mean requirements for the program, number of credits, types of courses, clustering of courses, so on.

Then these—the chairman and the head of a program, the nominal head of a program, met with the curriculum committee to clarify, explain, aspects of the report.

This went on for about two years. It was a self-evaluation process.

This is not going on right now by the curriculum committee.

But all through the years the curriculum committee was involved in the following:

One, they had—they passed on every new course that was to be offered in the school.

Two, they acted on every new program that a department wanted to—wanted to introduce. That new program had to go from them to the faculty.

Three, the curriculum committee acted on every change [3898] in a program that a department wanted to change.

Those are the main things.

Q Would it be fair to call this a rather active committee?

A Yes. That's an active committee.

Q Now, let's turn to the committee on promotions, Dean.

Is that committee still in effect?

A Yes; very active committee.

Q Would you tell us, as best you can recall, what that committee does?

A There are basic guidelines—by guidelines is meant things to be considered or criteria for promotions—set forth in the bylaws. That's a faculty decision.

The curriculum committee decided on the details of implementing these guidelines.

Q I would call to your attention, Dean Gittler, that we have in evidence, and I am placing before you at this point, Petitioner's Exhibit 12-A and 12-B to Board Exhibit 2, which is in evidence in this case. Board Exhibit 2 being the transcript of the earlier hearing, the first hearing in this matter; 12-A being entitled criteria and procedures for promotion as codified by the faculty committee on promotions; and the document 12-B being entitled guidelines for promotions, J. B. Gittler.

A Yes.

[3899] Q Dated February 1970.

Would you consider with your testimony?

And you can make reference to Petitioner's Exhibit 6 and 12-A and -B in your testimony.

A Okay.

What does this mean, P-12-A?

Q Petitioner's 12-A it means.

A On Petitioner's 12-A, page 1, that constitutes the basic criteria that I have referred to and guidelines set up by—set up by the promotions committee and the faculty for promotions.

Then I mentioned that the promotions committee has, from year to year, detailed in various specifics how to implement these basic guidelines for promotions.

The—no one is considered for promotion unless a recommendation comes from a department. When a recommendation comes from the department for promotion, it goes to the promotions committee.

The promotions committee then evaluates the candidates on the basis—on the bases of these basic guidelines plus the detailed specifics that the promotions committee has set up to further clarify and elaborate on these guidelines.

They discuss the candidate; they may call in the candidate; they may call in the chairman. They ask for [3900] all kinds of materials from the department on this candidate. And there is discussion, ultimately leading to a vote by the members of the committee.

The members of the committee consist of five voting members and two alternates. And it's a positive vote constitutes a recommendation for promotion of this individual. And this goes to the dean.

If the dean—the dean agrees, it goes to the president, who ultimately makes the—actually makes the promotional appointment.

Want me to go on?

Q Just want to focus for a moment.

With respect to this latter point, would you turn, Dean Gittler, to Appendix A to Petitioner's Exhibit 6 in evidence and, more particularly, to page 4, Item 2.

A You will pardon me. I don't know where you are.

Q Would you please turn to Petitioner's Exhibit 6, which is the bylaws, and, more particularly, to Appendix A of Petitioner's Exhibit 6 and to page 4 therein, Item 2.

It states that failure of the committee to support a departmental recommendation or appeal by individual faculty member, in such cases the committee must state its reasons for rejection, with the exception of cases of faculty members who have not been promoted for ten years; committee action shall be final.

[3901] Do you see that there?

A I don't find it, but I am aware of it.

Q No, I'd like you to see it and read it.

A Okay.

Q Now, I note, Dean Gittler, that, where other provisions of this set of bylaws have been revised, there are notations to that effect, does this provision that I have just read to you remain in full force and effect?

A I—

Q Just the one I read to you, it hasn't been changed, has it, by faculty action?

A The committee, if it turns down a recommendation from a department for a promotion, does give its reasons to the department and, I think, even to the individual candidate.

I don't know of a case of a person not being promoted for ten years having come up during my time.

Q I am talking about that. The last sentence, about the finality of the decision.

A With the exception of cases of faculty members who have not been promoted for ten years, committee action shall be final.

Q And that provision has not been changed, has it?

A No.

Q And where the decision is negative, except for the [3902] ten-year caveat you have just read to us, the decision is in fact final?

A According to this, yes.

MR. SHECTMAN: No. The witness is not answering the question. The question was in fact final.

THE WITNESS: I think I answered it by saying I have never had a situation arise during my time.

Q Have they turned down people for promotion in this committee?

A Yes.

Q Have any of the people that have been turned down by this committee ever been promoted after they have been turned down?

A No. If that's—

Q Do you know whether this bylaw provision has ever been taken out of the bylaws by the faculty?

A No. It has not been taken out.

Q It remains in full force and effect, Item 2 on page 4 of Appendix A, is that correct?

A Yes.

Q Now, returning to Petitioner's Exhibit—strike that.

Now, you told us, Dean Gittler, that where there is a positive or affirmative recommendation from this committee, it goes to you.

A Yes.

[3903] Q And I think your testimony was that, if you agree, it is then passed on to the president of the institution.

A Yes.

Q Is your agreement in fact required for someone to be promoted?

A Yes.

Q If you disagree, what happens?

A He would not be promoted.

Q Isn't there an appeal to the president, separate and apart from your determination?

A There could be; but, if there was appeal over my veto or rejection, he has never—the president has never

promoted anybody, if there was an appeal. And I am not aware of an appeal.

* * * *

[3904] Q Dean Gittler, you have been dean for nine years.

How many times have you reached a conclusion different from the promotion committee with respect to an affirmative recommendation?

A I beg your pardon? Tell me again.

Q How many times in that nine years have you disagreed with the committee with respect to an affirmative recommendation?

A Once.

Q So that in only one instance did you disagree with them?

A Yes.

Q In that instance, I take it, the person was not promoted?

A That's right.

Q But you have only had one occasion in nine years?

[3905] A Yes.

Q Otherwise, the recommendations of the promotion committee have been accepted, affirmative recommendations of the promotion committee, have always been accepted by you?

A Yes.

One thing has to be clarified. And that is that, if I remained neutral or abstained, that I am not defining that as disagreeing with the committee.

Q I understand.

Where you remained neutral or abstained, was the recommendation forwarded on to the president?

A Yes.

Q And it was forwarded on as an affirmative recommendation, I assume?

A Not from me; from the committee.

Q From the committee.

How many instances, percentage-wise, did you abstain in?

A Not more than two instances.

Q Approximately how many—That's not a percentage, but I will take that answer—approximately how many times did you join—

A In agreeing with the committee?

Q Right; and pass on your recommendation with the committee's to the president?

[3906] A I—

Q Approximately.

A On the assumption that we average two promotions a year, then it would be 18 times. But it may have been more than two. I don't—

Q By the way where you have joined the committee, has the president ever—

A "Joined" means agree?

Q In an affirmative recommendation, have those promotions been made by the president?

A Yes, in every instance.

Q In the situation where—two situations, or approximately two situations in which you abstained, to the best of your recollection, was the appointment made by the president?

A Yes.

Q Do you know of any instance in which—

A I am sure of one. I don't remember the two.

Q Are you sure—strike that.

Now, turning to the negative instances, do you know of any instance in which the promotion committee was negative in which a promotion was made?

I think you answered that already, but I think the record ought to be clear.

A No, I don't know of any instances.

[3907] Q In other words, negative remained final?

A Yes.

Q Is that a yes?

A Yes.

* * * *

Q Who determines who is to be on the promotions committee?

[3908] A The steering committee presents is nominees, its slate, to the faculty. The faculty votes.

Q Three members of the steering committee are elected by the faculty?

A All the members of the steering committee are elected by the faculty.

Q Even though the bylaws provide differently; is that correct?

A Yes.

I never appointed anybody on the steering committee.

Q So the bylaws provision here that two of those steering committee members can be appointed by you and three by election from the faculty is not the way it really works, is it?

A No. I have never appointed.

Q Now, I believe that the committee on promotions that we have just been talking about is also denominated in these bylaws as a committee on appointments and promotions.

Is it in fact a committee on appointments?

A No. It's only a committee on promotions.

Q Would you tell us, Dean Gittler, how appointments of full-time faculty members are handled at your school? How does this all come about?

A If there is an item or a slot for an appointment, it proceeds in the following manner:

[3909] First it constitutes a recommendation from the chairman and/or the department to me. The assumption is that they have gone through, evaluated, a number of candidates, interviewed some, maybe all of them. And ultimately it becomes a recommendation to the dean.

Then, when and if I agree, I ask for an appointment to be made by the president of this individual recommended by the department.

Q Now, would you tell us the role of the departmental chairman in the hiring process?

A I—

Q If those roles vary, would you give us an understanding for the spectrum of roles that may be played?

A I am most familiar with the relationship of the department—of the chairman to the dean, less familiar of the relationship between the chairman and his faculty in the departments.

But I am aware of the following:

In most instances regarding intradepartmental operations and procedures between faculty—and procedures in the department, including the chairman and faculty, I

get—I know of very few instances, if any, where the recommendation of a new appointment, for a new appointment, by a chairman, would not—would not include the chairman's consultation, interviews, by members of his department of [3910] prospective people.

Q Now—

A Faculty members.

Q Now, Dean Gittler, in bringing your new faculty member, full-time faculty member, aboard, one has to determine what rank he will receive.

A Yes.

Q How do you go about doing that? How is that done?

A There are several things.

First, the item in the budget, which expresses itself in monetary terms, is the major determinant of the rank, because we have a—we have a salary schedule by rank. So, if there is X amount of money available for the appointment, this X amount of money falls into rank Y. And then the appointment has to be in that area for that money.

Q There is some discretion, I would assume, in where one places a new faculty member?

A I don't think I—

MR. SHECTMAN: I will object to the wording of the question.

MR. KRAMER: I withdraw the question, counsel.

Q Is there some discretion, Dean Gittler, in where a new faculty member will be placed; or is it an absolutely automatic proposition?

[3911] A No, it's not automatic in the following sense: that I—we may have, or there may be more money than an appointment for a given rank, like—such as assistant professor, may be money for an associate professor, but an applicant or a candidate may be—may be preferred by the department, and his background warrants assistant professor's appointment, so that they will not appoint, even though there is money, in the associate professor rank.

Q That determination is made by whom?

A It comes up that way, in most instances, from departments.

Q In other words, it's the department, the faculty members themselves who decide whether this new hire will be an associate or assistant professor, and where he will be placed on the salary scale; is that right?

A Yes.

I may raise questions about his deserving to be in a given rank. But, from my experience, they have always come through with the recommendation in a given rank.

Q Does the department chairman play any special role in connection with this?

A The department chairman is the administrator in his deparment, and—and if you will allow this pretense of erudition—administration means administrary steering. He leads, he steers, and he influences in almost every [3912] instance. So he plays a very significant role that way.

Is that what you mean?

Q I think that answer is adequate.

Dean Gittler, have you ever approved the appointment of a faculty member who was not recommended by his department?

A No. No.

Q Have you ever approved the recommendation of a faculty member who was opposed by the department chairman?

I am talking about new full-time faculty members in all of this discussion.

A Recommended by the department, but not recommended by the chairman?

Q Yes.

A I know of no such instance, no.

Q Have you generally appointed the new faculty members who were recommended for appointment by the departments?

A There were one or two—generally, yes. More than generally, yes. Ninety-eight percent of the time.

Q Now, has the president of the institution ever vetoed any of these appointments?

A No.

Q For that matter, has Vice President Fishman vetoed any of these appointments, new appointments; in other [3913] words, once they were chosen and recommended up the line?

A It's a matter of just last year. No.

Q And Vice President Fishman had a predecessor, did he not, several years ago?

A Yes.

Q Did he ever veto any of these appointments?

A I don't think we made appointments during his vice presidency.

Q Has the board of trustees ever vetoed any of these appointments?

A No, not at the Ferkauf School.

Q The departmental chairmen, Dean Gittler, how are they selected or appointed?

A It's a recommendation from the department to me, and from department faculty to me.

And, until recently, I made the final decision. Actually, I was supposed to ask the president to appoint the chairman.

Q As a practical matter, he does not do that, does he?

A He didn't do it, no. I just went ahead and appointed him.

Q Do you know Professor Martin Miller?

A Sure.

Marty Miller, you mean?

Q Marty Miller.

[3914] A Yes.

Q He is a department chairman, is he not?

A Yes.

Q Which department?

A Special education.

Q Is there a course reduction that comes with that appointment?

A Yes, a workload reduction.

Q Would you tell us about that, please?

A A chairman in a department at the Ferkauf School is entitled to a reduction of half of his workload.

Q Why is that, Dean Gittler, if you know?

A Because of the work duties and responsibilities of

a chairman that consumes time that the ordinary member of the—non-chairmen member of the department is not involved with.

Q Now, Dean Gittler, is there such a thing in your school as the council of department chairmen?

A Yes.

Q Would you tell us how that body, which is not provided for in the bylaws—

A That's right.

Q —of the faculty came into existence, and then what it does?

A Starting in October 1966 or thereabouts I instituted [3915] these regular and semimonthly—on the average, semimonthly meetings of chairmen with me.

It's a—it isn't frequently referred to as a council. It's the chairmen's meeting.

What it does was your question?

Q Yes. What goes on in these meetings, Dean Gittler? What's the function of this group?

A Since the chairmen's group or council was instituted, I'd be hart put to think of anything that is—that is introduced, innovated or anything that has to do with the welfare of the school or departments that isn't discussed at the chairmen's meeting.

And that isn't decided by the—at the chairmen's meeting, other than those items that have to go to the faculty. But even those that have to go to the faculty go from the chairmen.

Q Putting aside for the moment the kind of items that have to go to the faculty, and you have discussed many of those with us this morning, would you give us five or six examples of the kind of things that are decided in the chairmen's meetings that you just referred to that do not go to the faculty?

A Okay.

Up to recently—and I will account for why we don't do it recently—up to recently, at budget time, [3916] I took up with the chairmen every aspect of the budget and the breakdown and the distribution of the budget for the Ferkauf School.

The reason I haven't done it in the last two years, although again they're familiar with what goes on in the budget, is that there literally has not been any modification or alteration in the budget in the last two years from the previous years, in terms of the amount of money that we have—

Q Why is that, Dean Gittler?

A Didn't get more money.

Q Assuming that our times were to improve in this country and money was to become more available, is there any reason for the procedure to have changed?

A That I—that I emplowed before?

Q Yes.

A No.

I might point out this: that, notwithstanding the financial exigencies of the university, I prevailed on the vice president and the president for additional appointments, additional new appointments; and who was to get what appointments was decided by the chairmen.

Q Would you tell us—so that the chairmen would continue to have this budgetary role that you talked about assuming there were some increase in the funding levels? [3917] He can't take a shake of the head.

A Yes.

Q Now, give us some more examples of the kinds of things decided by the chairmen.

A I—

Q In this meeting with you.

A Up to recently the chairmen would be asked where they stood on a departmental individual recommendation for an appointment.

Q What does that mean?

A That means this: that a department—that, if department A recommended a specific individual for an appointment, I would have that department chairman bring to the chairmen's meeting his vita, his background, his reasons for the departmental recommendation. And I would seek the various chairmen's reaction to that particular recommendation.

Q What did you do with that input, Dean Gittler? What use did you make of it?

A In—I am unable to recall instances when the department chairmen, other than the particular department chairman who is recommending an appointment, where they disagreed with the particular candidate.

When this particular candidate was not appointed, it was mainly due to the department—the department [3918] chairman who's recommended this candidate, it was really resulted in, after the discussion, the department chairman withdrawing that particular candidate.

Q That's the reality of the process, is it not?

A That's the way it occurred.

That was very infrequent. Most times the recommendations were such where it met consensus and agreement with the other departments.

Q Now, in addition to these items you have given us, could you give us a couple of more examples of the kinds of things that are decided in that meeting?

I assume not all of them are major items. There must be some minor ones as well.

A It's at the chairmen's meeting that the initial call and then the discussion for course offerings for subsequent semesters—the initial call is made and discussed.

It's at that—it's at that meeting that chairmen report on—on how they plan to use their money for the part-time people.

At the chairmen's meeting the chairmen—I ask the chairmen to act on the draft of the academic calendar that the registrar submits as a draft.

Frequently—I don't know about frequently, but almost every year there's been a modification by the chairmen of the academic calendar that the registrar submits; [3919] and the modifications have almost always prevailed.

It's at the chairmen's meeting that much, much discussion takes place relative to interdepartmental course offerings.

By interdepartmental course offerings, I mean students in department A enrolling in courses in department B for the student's program; so, there is that exchange and interaction.

Q What role, if any, Dean Gittler, has the department chairmen's group had with respect to tuition increases?

A Oh. The—When I had an idea that tuition should be increased, I always brought it to the chairmen. And I did not make the recommendation to the top administration for tuition increases unless the chairmen agreed with it.

But very frequently the chairmen are the ones that came up with all kinds—with ideas about increasing tuition, and not just tuition across the board, but right now we are in the process where the chairmen are recommending diverse tuition for students in different programs. And that's coming from departments, through chairmen.

Q Professor Miller is a chairman today?

A This year, yes.

Q Is he involved in this process you have just been describing to us?

[3920] A Yes.

* * * *

[3923] Do you also have a council on tenure?

A Yes.

Q Would you tell us, is the council on tenure provided for in the bylaws, Petitioner's Exhibit 6?

A No.

Q Would you tell us about the council, how it came into being, who it consists of, and what it does?

A Tenure appointments used to be made by chairman to dean to president. The evaluation was primarily a departmental evaluation.

When I became dean, I instituted this council, dean's council on tenure, and all the tenured faculty at Ferkauf are members of the council on tenure.

Q Approximately how many members are there, Dean Gittler?

A I will tell you in a minute.

Twenty-one, as of the fall semester.

Q Do those include all the tenured faculty members at your school?

A Yes.

Q Now, what is it that transpires at a meeting of this council?

A A faculty member who has been fully employed as a full-time faculty member at the university comes up for his—for seven years—comes up for—when he comes up for his eight-year reappointment, has to come up as a [3924] tenure appointment. And so those faculty people whom the department wishes to retain after the seventh year, those faculty members are evaluated by this tenure council.

Q Before we pass on, Dean Gittler, you said that those faculty members the department wants to retain are evaluated by the council.

Is there first an evaluation in the department?

A Yes.

Q Would you tell us about that?

A The—I know through the chairman of a department that the faculty—that the faculty in that department wishes to retain this faculty member. And the kind of evaluation that goes on in the department I am not familiar with the details, and it varies from department to department.

Q But the faculty member would not be considered by the tenure council unless he or she was first approved and recommended by the department; is that so?

A That's so.

Q Now, let's assume there is a recommendation by the department, what format does that recommendation take?

A The chairman sends a recommendation to me.

Q In writing?

A In writing.

I convene the council on tenure.

[3925] Q What does that recommendation look like in a typical case? What can we visualize here?

A A letter from the chairman giving his reasons and his rationale for his recommendation of this individual for eighth year tenure appointment. And he—it's usually a detailed letter that goes into his teaching effectiveness, his research activities, his publications, et cetera.

Q His activity on committees?

A And activities on committees.

Q Would you continue the deliberations of the council?

A And I convene the tenure council, which consists of all the tenured faculty of Ferkauf.

This tenured—this council on tenure has a committee on initial screening and evaluation. I appoint the—the council wanted me to appoint the screening committee, so I appoint from the council, I appoint five members to the screening committee, one from each department, with the exception of the member—with the exception of a representative of the department in which the candidate is coming up.

Now, this screening committee goes through a very, very extensive and rigorous evaluation, amounting to his —almost his total academic history, including his performance and his involvement in every one of those cate- [3926] gories that you happen to mention just previously, whatever documentation there is on his teaching effectiveness, whatever information we know about, his participation in student dissertation supervision, whatever information we can gather on his publications, whatever—so on, his membership in committees.

And sometimes, but rather frequently—I mean, maybe almost always—the screening committee will either by themselves or ask me to make contact with some top people in the given substantive area, discipline, of this candidate to see what their opinions and posture is relative to this candidate.

Now, this screening committee gathers all this information, and then they make their recommendation to the tenure council, which I convene after that when they are ready.

Q What happens then?

A Then the tenure council discusses the—whatever the screening committee presents.

Sometimes it has asked the screening committee to look for additional information.

But finally the tenure council votes by secret ballot the recommendation for a tenure appointment.

Q Do you vote?
A No. I chair.
[3927] Q All right.
When the secret ballot vote is completed, what occurs? Assume it's favorable now.
A Yes.
Then in almost every instance, except one, through the years—since '67, since it was a year after I came, in every instance with the exception of one—let me see if that's a correct statement—yes, in every instance except one, I then made the recommendation to the president for a tenure appointment.
Q Were your favorable recommendations all accepted?
A Yes.
Q All right.
This—This "except one" that you have told us about, where apparently the council recommended yea, and you felt differently—
A Yes.
Q —would you tell us what happened there?
A The recommendation from the council to me, while it constituted a majority vote, was, one, a very close vote; it wasn't a clear-cut—we'd like unanimity; it wasn't a clear-cut vote.
After that, before I made a final decision, I went back to the department and asked them to elaborate on their recommendation. And the department in this instance, [3928] when I went back to them, whatever the motivation was before, the majority of the department either voted—did not want him to have tenure, or they abstained.
Q Then what happened?
A And so I did not recommend the tenure appointment.
Q Did the—was there—you did not recommend a tenured appointment to the president?
A That's right.
Q Was there a dissenting voice expressed to the president by the council?
A No.

Q And the faculty member involved was not appointed?
A No.
Q By appointed, I mean he wasn't granted tenure.
A Yes.
Q Approximately how many affirmative recommendations have there been by the tenure council during the time you have been dean?
Obviously, you can't be exact, but give us your best estimate.
MR. SHECTMAN: I am going to object to the question, because I believe its terms are inconsistent.
I am not sure the testimony has established that this tenure council has existed since the witness has been dean.
[3929] MR. KRAMER: Excuse me.
Q How long has this council existed?
A I brought it into being, I think, a year after I became a dean.
Q Now, will you answer my question with that caveat?
A A minimum of ten.
Q That's the lowest number that you can estimate?
A Yes.
Q Now, have they, during this period of time you just indicated, come up with any negative votes on tenure?
A Yes.
Q Approximately how many of those?
A Let me think.
Between three and five.
Q All right.
Have you reversed any of those negative recommendations?
A No.
Q Have any of those people who were not recommended been appointed to tenure? Have any of those people who have not—who were not recommended been given tenure?
A No.

Q They weren't given tenure by the president of the institution?

A No.

[3930] Q By the board of trustees?

A No.

Q By the way, does the president of the institution make his own independent investigation of an affirmative tenure recommendation?

A No.

Q Or are they just approved routinely.

A I don't know about routinely. He takes my judgment.

He may ask me a question or two.

Q You in turn accept the recommendations of the council?

A To the extent that I mentioned.

* * * *

[3931] Q (By Mr. Kramer) Is it a fact—strike that.

You told us a while ago, Dean Gittler, that, were the Ferkauf School's budget increased, the procedures with respect to budget that are applied by the department chairmen's group would continue as they had in the past; is that right?

A Yes.

Q Would that also be true with respect to a decrease in the budget, should that occur in the future?

A Should that occur in the future, yes.

It has in the past.

Q The fact is, however, that the budget has remained the same the last two years?

A More than two years; three years.

Q Three years?

A Yes, with the exception of the new additional appointments that I mentioned, remember, for this year, as of last year.

Q Yes, sir.

[3932] Now, in addition to the department chairmen, do you have program directors at your school?

A Not for every program, but for some.

Q All right.

Would you tell us, first, what a program is; and then what a program director is?

A Yes.

Q And does.

A A program consists of a series of course and other requirements in the pursuance of a degree in a given substantive academic area, which is a subarea of the conventional disciplines, such as social psychology would be a substantive academic area in sociology; clinical psychology would be a substantive program area in psychology.

In special education there is a program in mental retardation, so on.

Q Now, what is the function of the program director in those programs where you have a program director?

A Program directors are unofficial directors.

By unofficial directors is meant that they usually constitute the leadership of the program in a given department, and they are usually appointed by the chairman in consultation with other members of the department.

His function varies from director to director, from program to program.

[3933] In some instances, in some programs, they have almost full authority insofar as devising the requirements for that program, for admitting students to the program, along with the other faculty in that program.

They have—they usually devise—they usually select the fellows in that program, if there are fellowships.

That's an illustration.

Q By fellowship you mean what, Dean Gittler?

A We have at the Ferkauf School three—what is known as three training grants from the government: one in clinical psychology, one in special education, I think primarily in the program of mental retardation, and we have a training grant in school psychology.

Now, these training grants have X proportion of the grant allocated to fellowships.

Q Are the fellows employees, or are they students?
A They're students.
Q All right.
Now, in special education, do you have several programs?
A Yes. Mental retardation, and one on dash disabilities; I forget the exact term.
Q Are there any program directors in that department?
A There is not clear-cut as some others. And I usually—I usually interact primarily with the chairman in that [3934] department.
Q Who decides whether there are to be program directors?
A The chairman and the department.
Q In the case of special education, the chairman is Professor Miller; is that correct?
A Yes.
I don't appoint program directors.
Q Do you have sabbaticals in your school?
A Yes.
Q Who makes decisions about whether a faculty member will or will not receive a sabbatical?
A A faculty member is entitled to a sabbatical on a —a full-time faculty member is entitled to a sabbatical after, usually, six consecutive years of full-time service. The seventh year I get a recommendation from the chairman for sabbatical for an individual in his department.
And, coupled with that, comes a detailed memo on his plans for sabbatical.
And I make the recommendation to the president.
Q Have you ever granted a leave—by leave, I mean a sabbatical leave—without the recommendation of the department chairman?
A No.
Q Now, do department chairmen have secretaries?
A Departments have secretaries. They're usually in [3935] the chairman's office.
Q Do they work principally for the chairman, in most situations?
A And the department.

Q I asked you principally.
A I don't know.
Q All right, you don't know.
Does the chairman have authority to direct the secretary?
A Yes.
Q To determine if there is a dispute or a problem of allocation, who that secretary will work for?
A I would take the chairman's recommendation.
Q All right.
A If there is a dispute.—
Q If the secretary does not do the work the way he or she should, does the chairman have the authority to reprimand that secretary?
A Yes.
Q And, if the secretary is sufficiently deficient in a chairman's view, to recommend her termination?
A Well, after X period of time she cannot be terminated because of the union affiliation.
Q Except for cause?
A For cause.
[3936] Q Does the chairman have authority to recommend to you the termination for cause?
A Yes.
Q And would you generally accept that recommendation?
A Yes.

• • • •

[3938] Q In addition to the council on tenure, is there a council on grievances at your school?
A We call it a council or committee on grievances and appeals.
Q Would you tell us when that council came into being, who elects or appoints it, as the case may be, and what that council does?
And that is not a leading question.
A I brought that council into being last year, during '73-'74.
For the reasons that I mentioned previously, all matters of appeal from a decision of a department, from

students—weren't any from faculty—I sent to the standards committee.

The standards committee, through its chairman, one time told me that they would not like to handle those appeal situations. So I set up this council of grievances and appeals.

They—the members of that council consist of what I could very easily define as the senior members of the faculty of the Ferkauf School. They are usually the full professors in the school, not all of them, but—I mean, not all the full professors in the school are on the appeals and grievances council, but all the faculty members are full professors, I believe, there on the thing.

[3939] Then the chairman of the standards committee is a member, and five students from each department. That's the—that's the council of grievances and appeals.

Since last year we had one case come—one case come up that I took to the—to this council of appeals and grievances.

Do you want to know about the case?

Q Tell us about it, please.

A A student for several reasons was recommended by the psychology department for dismissal.

They—a copy of that recommendation came to me, and went to the registrar. The registrar acted instantaneously and dismissed him.

But I told him that this is to go to the council of appeals, and to change his order.

I convened part of the council, omitting the members of the psychology department, and the chairman of the psychology department came to this council where there were students and the chairman of the standards committee, and then the other senior members of the faculty on the council.

The chairman of the psychology department came to present the case for dismissal, speaking for himself and the name of the department.

The student was present. And we met for hours. Then the council voted not to dismiss.

[3940] Q And he was not dismissed?

A As of now.

And I so informed the department that I will go along with the council. But I gave them an opportunity to meet with me and talk with me.

I met with the members of the—all the members of the psychology department, and they seemed to still insist that he should be dismissed.

So, I said then we will have another meeting of the entire psychology faculty along with the council on grievances and appeals.

And I so informed the student, and asked him whether he wants to appear again. He said he prefers to talk to each individual faculty member in the psychology department.

And this is where it stand now. It stands where he is not dismissed, and that he is in the process of meeting with the members of the psychology department.

Q You have told us, Dean Gittler, about how new full-time faculty members are hired.

Could you tell us how part-time faculty members are hired?

A Part-time faculty members usually are hired by recommendation from the chairman of the department whom he consults; I assume that he consults the program directors and the members of the department.

[3941] Anyway, I get a recommendation from the chairman of the department for individual A to teach course X for so much and so much money.

This is—and it's almost always a formality for me.

Q The so much and so much money that you just referred to, how is that determined?

A Each department, after we discuss it at the chairmen's group, each department will receive from me a statement that they have so much and so much money for part-time faculty. And then they distribute it; they break it up as they see fit.

Q Have you ever vetoed—

A A part-time recommendation?

Q Yes, sir.

A No. Only if I didn't have money.

Q Would you say, then, that you generally approve those recommendations?

A Yes.

* * * *

[3952] Q Does your school in fact have a curriculum research and development center in mental retardation?

* * * *

Who is the director of that center?

A Herbert Goldstein.

Q He is a full-time faculty member at your school?

A Yes.

[3953] Q Now, on or about November 29, 1974, did you and Professor Goldstein, on behalf of Yeshiva University, apply for a federal fund grant of $590,021 for that center for the period January 1, 1975, to August 31, 1975?

A Yes, a renewal grant.

Q The original grant dates back several years; the original funding dates back several years, I take it?

A Yes.

Q I show you a multiple document entitled "Curriculum Research and Development Center in Mental Retardation, FGS, Yeshiva University, 55 Fifth Avenue, New York, New York 10003, Continuation Proposal, January 1-August 31, 1975."

Is this document of several pages the proposal?

A Yes.

Q Is your signature found on the first page of that proposal?

A Yes.

Q Together with Dr. Goldstein's?

A Yes.

Q And are the numbers that we—is the number that we just referred to, $590,021, found on that page?

A Yes.

Q And the date of transmittal, November 29, 1974; is that correct?

[3954] A Yes.

Q Has the institution—meaning Yeshiva University—in fact received or—in fact received the $590,021, or

received approval of this grant with the money to come later?

A Yes.

Q Which is it?

A I don't know whether—

Q Have they actually gotten money, or just approval of the money?

A I don't know how much of it they got to date, but they're supposed to get all the money.

Q In other words, this has been approved?

A Yes.

Q Now, Dean Gittler, aside from signing this continuation proposal, do you have any role—any role in the direction of this project?

A Technically—technically only.

Q Would you explain what you mean by that?

A I hire all the people that he wants on this project, and I approve all expenditures.

Q When you say you hire all of the people he wants on this project, who is the "he"?

A Dr. Goldstein.

Q Who selects the personnel for employment on this [3955] project?

A Goldstein.

Q Have you ever turned down any individual selected by Mr. Goldstein, to—Professor Goldstein, to work on this project?

A Never, no.

Q Have full-time faculty members been employed to work on this project?

A Part-time. Full-time faculty giving part of their time.

Q On this project?

A Yes.

Q Who selected them for this project?

A Goldstein.

Q Who has terminated their services on this project?

A Goldstein.

Q Has this project been a source of summer employment for some of your full-time faculty members?

A I think so.

Q Who selected them for that summer employment?
A Goldstein.
Q All right.
Have research associates—I am not talking about assistants now, but research associates, post-doctoral personnel—been hired to work on this project?
[3956] A Yes, several.
Q Who has hired those people?
A Herb Goldstein.
Q Have technical and clerical employees been hired to work on this project?
A Yes.
Q And who has hired those people?
A Herb Goldstein.

• • • •

[3957] Q (By Mr. Kramer) I show you Employer's Exhibit 146-A through -D. This is the continuation proposal we have been referring to, is it not?
A Yes.
Q By the way, who prepared this continuation proposal? Who was responsible for it?
A Primarily Herb Goldstein. And whom he consulted and had work on it, I don't know. But it came from him to me.
Q He is the director of the project?
A Yes, director or principal investigator.
Q Who prepared the budget for this project?
[3958] A Herb Goldstein and others.
Q It's Herb Goldstein's responsibility, is it not?
A Herb Goldstein's responsibility.
Q He is director?
A Yes.
Q You told us this is a continuation of a project. I show you Employer's Exhibit 147 for identification.

(Document above referred to marked Employer's Exhibit 147 for identification.)

The document entitled "Curriculum Research and Development Center in Mental Retardation, FGS, Yeshiva University, 55 Fifth Avenue, New York, New York

10003, Continuation Proposal, January-December 1974," is this a continuation of the project that we have been discussing?
A It's a renewal of the '73, yes.
Q And on the second page—the first page, rather, of this exhibit is the application for continuation?
A Yes.
Q Signed by you?
A Yes.
Q And signed by Herbert Goldstein?
A Yes.
Q How much money was requested here?
A $880,000.
Q Was $880,000 received under this proposal?
[3959] A I think so. It went to the university.
Q Who was responsible for the administration of that $880,000 grant?
A Herb Goldstein, with the exception of the part of the grant that goes to overhead.
Q Approximately what part of the grant would go to overhead?
A Oh, heck, between 40 and 60 percent.
Q So the remainder, approximately a half a million dollars, would be subject to Herb Goldstein's administration?
A Yes.
Q Did Herb Goldstein select the personnel to work on this project?
A Yes.
Q Under this grant?
A Yes.
Q By this grant, I mean the one denominated, or covered by Employer's Exhibit 147.
A Yes.
Q Did he select faculty members to work on that project?
A Yes.
Q By that I mean full-time faculty members.
A To work part-time with him.
Q Yes; on the project.
[3960] A Yes.

Q Did full-time faculty members secure summer employment as a result of being selected on this project?

A Some did, yes.

Q Did Professor Goldstein have the authority to terminate those full-time faculty members?

A Yes. On his grant.

Q Right; whether in the summer or, for that matter, during the course of the year?

A Yes.

Q Did he have the authority, and did he in fact select research associates, technical employees, and clerical employees, further denominated in the proposal, to work in the center for mental retardation?

A Yes, further denominated in the proposal or substitutes for those listed here.

Q Now, you have referred to two documents now, Dean Gittler, Employer's Exhibit 4-A—146-A through -D and Employer's Exhibit 147, and to employees hired pursuant to both of those proposals.

Putting aside consultants, were all those employees employees of the university?

A Yes.

Q Were consultants also hired under Employer's Exhibit 147?

[3961] A If there are consultants, he hired them.

Q He established the rate they would be paid?

A Consultants, yes.

Q By the way, you are the dean of the school, are you not?

A Yes.

Q You have no assistant or associate deans?

A Not now.

Q You did not formulate these proposals, 146 and 147 for identification; they were formulated by Professor Goldstein; is that correct?

A Yes.

Q In preparation for this case, and at our request, did we ask you to dig out the files of the university the initial proposal for research and development center in

the curriculum for the mentally retarded, dated January 23, 1970?

A If you got it from me, then I dug it out.

Q Take a look.

A Yes, this had to come from me, because I was dean then.

Q All right.

MR. KRAMER: I'd like to have this marked as Employer's Exhibit 148.

[3962] (Document above referred to marked Employer's Exhibit 148 for identification.)

Q (By Mr. Kramer) I show you Employer's Exhibit 148 marked for identification, a document entitled "A Proposal for a Research and Development Center in the Curriculum for the Mentally Retarded," dated on the inside of the front cover as having been transmitted January 23, 1970, and signed on the inside of the front cover by T. Herbert Goldstein as the initiator, and by Jacob Levine as vice president for business affairs.

Is this the initial proposal of which Employer's Exhibits 146 and 147 are continuation proposals?

A I think this was the initial proposal.

Q This proposal is in the amount of $602,415?

A Yes.

* * * *

Q (By Mr. Kramer) If you will look on the front cover, Dean Gittler, you will see names Herbert Goldstein, director, and we are looking at Employer's Exhibit 148, then we have George S. Mischio, assistant director, M-i-s-c-h-i-o.

[3963] Who is, or who was, George S. Mischio?

A George Mischio, if I remember correctly, he was a member, full-time member of the faculty at that time, but primarily involved in this research project.

Q Who selected him for this project?

A Goldstein.

Q Warren E. Heis, development coordinator.

Who is, or was, Warren E. Heis?

A He definitely was selected by Herb Goldstein, because I don't remember who he is.

Q Gerald Melnick. He is entitled evaluation specialist. Was he selected by Professor Goldstein?
A Yes.
Q Do you know who Gerald Melnick is?
A No.
Q There is a Marjorie T. Fratkin, field coordinator, on the cover of this exhibit.
A I know who she is.
Q Who is Marjorie T. Fratkin?
A Now?
Q Then and now.
A Then I don't know. Now she is a student and his wife, and on the project.
Q He selected her for that project, did he not?
A Yes.
[3964] Q Lois Clerico, media specialist.
Do you know Lois—
A Louie.
Q Louie Clerico, media specialist.
A Yes.
Q I am told under Title 7 it doesn't matter.
Who is Louie Clerico?
A He is selected by Herb Goldstein to be the media specialist.
Q Did you play any part in the hiring of Miscio, Heis, Melnick, Fratkin or Clerico?
A Yes. I appproved them.
Q Other than approve them, did you play any part? Did you interview them?
A No.
Q The approval, I take it, was routine?
A Yes.
Q Professor Goldstein hired those people; is that right?
A Yes.
Q Subject to your routine approval?
A Because I agreed to a routine approval.
Q Right.
Now, all of these people that we just talked about were employees of the university, were they not?

A If by "employed by the university" is meant that they [3965]—they are put on university and Ferkauf payroll as every other employee at the university, yes.
Q And the university is in fact responsible, is it not, Dr. Gittler, for the work being performed under these grants?
A Yes.
Q The grants are made to the university?
A Yes.
Q And they are fulfilled by university personnel, are they not?
A Yes.
Q Dr. Gittler, you know Professor Goldstein?
A Yes.
Q You are generally aware of his activities?
A Specifically aware of his activities.
Q What percentage of his time devoted to university activities, inter alia, is spent in his capacity as director of curriculum research and development center in mental retardation?
A Now?
Q Now, as opposed—based on your observations.
A Technically, he is supposed to devote time to this project that's equivalent to the proportion of his salary that comes from this.
Q All right.
[3966] What proportion of his salary comes from this? That's technically?
A Yes.
Q We will take the technical end first.
A Actually he devotes almost full time to the center.

* * * *

Q (By Mr. Kramer) I am referring you to Employer's Exhibit 146-D under the heading "Administrative Unit."
Is Herbert Goldstein found there?
A Yes.
[3967] Q Listed as director?
A Yes.

Q What percentage of his time—
A Says 90 percent.
Q Does he also have summer employment under this grant?
A Yes.
Q He is called the director?
A Yes.
Q His function is to direct the activities under the grant, I assume?
A Yes.

* * * *

[3973] Q Dean Gittler, do you spend any time during your workday or work year for that matter seeing to it that the work of the Curriculum Research and Mental Development in Mental Retardation, the work described under these proposals, Employer's Exhibits 146 to 148, actually [3974] get performed?
A No.
Q Who is responsible for that?
A Herb Goldstein basically.
Q Do you spend any time during your work year recruiting personnel, be they consultant, be they lecturers, be they adjunct faculty, be they full time faculty, be they administrative personnel, to work on or in the Development Center?
A No.
Q Who does that?
A Herb Goldstein, as far as I know.
Q Have you ever initiated the termination of any employee, whether faculty, administrative, technical, clerical or consultant, working in the Center for Mental Retardation?
A No.
Q Who does that?
A The termination is initiated by Herb Goldstein and I just work through the papers, technically.
Q You have no Associate Dean?
A No.
Q And you have no Assistant Dean?
A No.

Q Do you have an Administrative Assistant?
[3975] A Yes.
Q Who is that?
A Edna King.
Q Does Edna King have anything to do with the employment or employee relations in the Curriculum Research and Mental Development in Mental Retardation?
A She just sends through the papers that come up.
Q Does anyone else on your staff have a role with respect to employment termination or employee relations that subsists within the Development Center and Mental Retardation?
A No.
Q Putting aside the Development Center, which we have just been discussing, have you at my request and in preparation for this case had prepared an exhibit listing the current grants, that means grants that are actually in effect as of this time at the Ferkauf School?
A Yes.
MR. KRAMER: Mark this as Employer's Exhibit 149 for identification.

(Document marked Employer's Exhibit No. 149 for identification, of this date.)

Q Dean Gittler, is this the list of current grants, Employer's Exhibit 149, to which we have just [3976] referred?
A As of December 31, '74.
Q Are those grants still in effect as of this time? Take a look through them.
A Yes.
Q So this exhibit, Employer's Exhibit 149, speaks as of today even though it is dated 12/31/74; is that correct?
A Yes.

* * * *

Q Let us focus on this exhibit, Employer's Exhibit 149.
How many of principal investigators listed on this exhibit are department heads or department chairmen, and would you name them first, please?
A The second grant on this first page, right now N. Gordon is listed as a principal investigator. Until this

semester he was both principal investigator [3977] and chairman and now somebody else is chairman of the department.

Q Would you continue, please?

A And the third one, Zach, who is a principal investigator there and is chairman of her department, and the fourth one, Miller, who is listed as principal investigator and he is chairman at present, and the fifth one, Eagle, is at present chairman and the principal investigator, and the last one on the second page, Brayer, is principal investigator and chairman of his department.

Q Are the grants listed on this exhibit, Dean Gittler, training grants or research grants or are some of them training grants and some of them research grants?

A Some of them are training grants and some of them are research grants.

Q Would you, as best you can, tell us which are research grants and which are training grants?

A On Page 1, the first one is a research grant. The second one is a research grant.

The third one is a training grant and the fourth one is primarily a training grant.

There may be some research involved there, but I'm not familiar with that aspect of it. It's primarily a training grant.

[3978] The fifth one is a training grant and the sixth one is a research grant and the next page, the first one is a research grant. The second one is a research grant and the third one—the third one is a facilitating grant. That means there is some money that he can use to the benefit of his department.

Q Would you tell us what a training grant is, Dean Gittler?

A A training grant is money given to the department through the principal investigator to enhance the training of students in a given program and facilitate the training of students in a given program and that is done by establishing Fellowships for students.

It is done by hiring teachers in the program and it is done by paying for clerical assistants in the program and that is what I can think of right now.

Q Would you tell us what a research grant is as opposed to a training grant?

A A research grant is given for a project that is submitted to an agency and the project declares what the applicant seeks to do by way of research performance and money is given for that research undertaking.

Q In preparation for this case, Dean Gittler, and at our request, did you have prepared an exhibit listing the personnel employed under the grant listed in [3979] Employer's Exhibit 149 with the exception, of course, of principal investigators?

A My office prepared that, yes.

MR. KRAMER: Mark that, please, as Employer's Exhibit 150.

(Document marked Employer's Exhibit 150 for identification, of this date.)

Q I show you Employer's Exhibit 150, marked for identification. Is that the list?

A Yes, to the best of my—yes, it is the list.

Q It speaks as of March 17, 1975?

A Yes.

Q I would like you to focus, Dean Gittler, on the first grant listed here, the Eagle grant, TO 1 MHOB 207 12 and focus on that grant.

Are you aware of what the purpose of that grant is in a general way?

A Yes.

Q Would you tell us about that?

A That is a teaching grant in clinical psychology.

Q Under the heading Faculty are listed six visiting lecturers.

What do those visiting lecturers do?

[3980] A They teach and supervise in a clinical, in a practicum course in the clinical program.

Q What does that mean to me in lay terms, Dean Gittler? What should it mean to me?

A It should mean that when the students have to have clinical work with patients in the clinical program, these are the people that teach them and supervise their clinical approach and process with the patient.

It is not limited to that. They also have discussions, they, meaning students, have discussions with the people listed here relative to clinical situations.

Q If you recall, Dean Gittler, at our last hearing we talked about how part-time faculty members were paid.

Are these six part-time faculty members paid in the same fashion as the ones you described previously on a per course basis?

A No, these people are paid on the degree of participation in the course, the number of hours and the number of students they supervise in the course.

Q Paid by whom, Dean Gittler?

A Paid from—paid by the University from this grant of money.

Q Are they part-time employees at the University?

[3981] A Yes.

Q Now, we have one additional title here under the Eagle grant, Adjunct Professor E. Tauber.

Do you know what Adjunct Professor E. Tauber does?

A He does the same thing as these others in the practicum course.

Q Does he do anything else, to the best of your recollection?

A I would have to look at my total list of part-time faculty. I don't remember whether he is teaching anything else.

* * * *

[3982] Q But he is an employee, Adjunct Professor Tauber, a part-time employee of the University?

A Yes.

Q He is paid by the University; is that right?

A From grant money.

Q But paid by the University?

A Yes.

Q By the way, does the check that he receives show that it is from grant money or is it a check like any other payroll check?

A I never saw the check but the payroll is the regular payroll that I make out for other faculty people.

Q Staying with the Eagle grant, as to the non-faculty employees listed there, Ruth Mason, and is Ruth Mason an employee of the University?

A Yes.

* * * *

[3992] Q Dean Gittler, did you interview any of the faculty, and there are seven names listed on the faculty on the Eagle grant?

Did you interview any of the faculty listed there before they were hired by the University?

A No.

Q Who selected those people?

[3993] A I get the recommendation from the chairman and my discussion with the chairman and at that time Norm Gordon was chairman, and it is my understanding at that time from him that the principal investigator in the training grant primarily selected those individuals.

Q Who is responsible for seeing to it that the grant, the training grant listed next to Professor Eagle's name is in fact completed by the University?

A How is that?

Q Who is responsible for seeing to it that this training grant, TO1 MHOB 207 12, is completed and performed by the University?

A The chairman and or the principal investigator.

Q Do you go around checking to see if that grant has been complied with?

A I haven't.

Q Does your administrative assistant go around checking to see?

A No.

Q Ruth Mason is listed on this page, this secretary.

Do you go around and see if Ruth Mason does her work the way she is supposed to?

A The only thing that my office does is check [3994] the time cards from all secretaries and that is all I do.

Q Who is responsible for seeing to it that Ruth Mason does her job?

A The chairman.

Q Who is that?
A Of the department. Now it is Dr. Eagle.
Q Who is responsible for seeing that that secretary performs whatever work is assigned on the grant?
A Right now, Dr. Eagle.
Q Let us turn to the next grant on this page entitled Miller (OEG O 742637). Are you generally familiar with that grant?
A Yes.
Q Would you tell us what is being accomplished under that grant?
A Well, the department has on its teaching faculty several individuals who are paid from the grant.
The grant money is also used for B. Schwartz, the administrative assistant.
The grant money is also being used for Kathleen McKaig, who is, as it states here, a coordinator of the Competency Base Teacher Education Program, which called for a self-evaluation in the department and for a report from the department.
Q Was Professor Miller the principal investi- [3995] gator under this grant at the time it was first issued to the University?
A No.
Q Who was the principal investigator?
A Bluma Weiner.
Q And Bluma Weiner occupied what position at the time in addition to being principal investigator under this grant?
A Department Chairman.
Q And is Bluma Weiner now the Department Chairman?
A No.
Q Who is the Department Chairman now?
A Marty Miller.
Q And he is also the principal investigator?
A Yes.
Q Is there a correlation between being principal investigator on this grant and Department Chairman?
A Now there is, there has been.

Q Would you tell us about that?
A That, I think, that since the grant has been in existence the chairman of the department has been principal investigator. Is that what you mean?
Q Yes, sir.

* * * *

[3996] Q I show you, Dean Gittler, Employer's Exhibit 151 marked for identification, a document entitled Application for Federal Assistance (non-construction programs) which appears to be signed by you.
Did you in fact sign this document?
A Yes.
Q Could you tell us in lay terms what it is?
A It is a training grant for the preparation of teachers to teach handicapped children.
Q Is this the application for the grant under which Professor Miller is currently the principal investigator?
A Yes.
Q This application is dated September 26, 1973; is that correct?
A Yes.
Q And it is signed by you?
A Yes.
Q Did you in fact make out this application?
A No.
Q Who was responsible for seeing to it that this application was in order for the substance of this application?
[3997] A Either Weiner or Miller or both.
Q But not you?
A No.
Q I show you what would be physically the fourth and fifth pages of this application, entitled on Page 4, "Justification for Budget Lines," then follow two pages of text.
Who prepared this Justification?
A Either Weiner or Miller. I don't remember who, or maybe both, but either both or either one of them.
Q But not you?
A No.

Q Not your administrative assistant?
A No.
Q Not the Vice President for Academic Affairs?
A It is the budget, the budget is submitted by Weiner and Miller to me and sent over to the Fiscal Office before the application is sent to Washington.
MR. SHECTMAN: We will stipulate that Professor Weiner and Professor Miller did in fact develop and complete this proposal.

* * * *

[3999] Q Has the Federal Government in fact been advised that Professor Miller has taken over the principal investigatorship on this grant from Professor Weiner?
A Yes, I think there was a communication to the Federal Government to that effect, to the Office of Education.

* * * *

[4000] Q Now, you have told us, at least insofar as this year and previous years are concerned, that the Handicapped Teacher Education Grant is a continuing one.
A Yes.
Q Is it a fact, Dr. Gittler, that an applica- [4001] tion is being prepared for additional funding or for supplementary funding, I guess is the better word, to cover the period beginning June 1, 1975?
A It was prepared, I think

* * * *

Is this the draft of the request for next year's funding?
A Yes, I think so, yes.
Q Did you prepare this draft?
A No.
Q To the best of your knowledge, by whom was it prepared?
A By the Department Chairman.
Q Who was that?
A Marty Miller.

[4002] Q Now, do you know whether a final application has actually gone forward to the government for next year?
A I think this application went to Washington.

* * * *

Q Dean Gittler, I see that in Employer's Exhibit 153-A, Dr. Miller describes one of his duties as Department Chairman, as concerning the direction of the Yeshiva Handicapped Teacher Education Project.
He is in fact the Director of that project, is he not?
A Yes.

* * * *

Is Professor LeLaurin a full-time faculty member at Ferkauf?
A Yes.
Q And is Professor LeLaurin tenured?
[4003] A No.
Q Is Professor LeLaurin tenure eligible?
A Yes.
Q Is a portion of Professor LeLaurin's salary paid from grants under Professor Miller's grant?
A Yes.
Q Who is responsible for seeing to it that Professor LeLaurin performs the services that are required under the grant?
A The Chairman of the Department is responsible for her performing her duties, given the type of people she has.
Q And if Professor LeLaurin were not to perform or does not perform her duties, would it be within the scope of the authority of the Chairman of the Department to remove her from working under the grant?
A The principal investigator, who in this instance is the Chairman, could remove her from the grant, but the principal investigator per se cannot remove her from the faculty, given her type of employment.
Q Now, were she removed from the grant today, Dean Gittler—
A No.
Q If she was removed from the grant today would she remain in the employ of the University?

[4004] A She could if I had the money or the department had the money.

Q And if it didn't have money or you did not have money then what would be the effect?

A The money would be used for her appointment and somebody else would have to go.

Q Or?

A Or if the other is kept and there is no money for her, she would have to go.

Q Do you know an Adjunct Associate Professor P. Reiss?

A Yes.

Q Would you tell us as best you know what Reiss does?

A Reiss is listed, I believe, as teaching a course in the Department of Special Education. I think he shares the course with somebody else.

Q Who is responsible for seeing to it that Reiss performs pursuant to the grant? That is, does his services that he is supposed to do.

A Pursuant to the department responsibility, the chairman is. He gets the money from the grant to pay for his—

Q Is he also responsible as principal investigator?

[4005] A His duties are supervised by the chairman of the department, his particular set of duties.

The money comes from a grant and the principal investigator is the one that recommended that he be paid from the grant.

Q Now, let us turn, Dean Gittler, to the non-faculty employees under the Miller grant.

Listed there is a Kathleen McKaig, and next to her name it says, "Coordinator, C.B.T.E. Program.

Would you tell us what the C.B.T.E. Program is and then what the Coordinator does?

A Albany now is requiring of a number of programs at the Ferkauf School to have in it, in addition to requirements for the degree, Albany has come through with a requirement that calls for what we refer to as Competency Base Teacher Education.

Each program that Albany wants a report on relative to C.B.T.E., each program had to submit or has to submit still to Albany a report of how they are instituting this competency base education phase of the program.

This called for working with school districts, with teachers in the school district, and what they call a consortium, and she was hired to coordinate the various aspects of that phase of the program in spe- [4006] cial education.

Q Hired by whom, Dean Gittler?

A What?

Q Hired by whom? Who hired her?

A By the chairman of the department.

Q And at that time the chairman was who?

A The chairman was Weiner. Whether she hired her, I don't remember, but either Miller and or Weiner hired her.

Q By the way, has the authority of the department chairman in this department changed any on account of the change in incumbent? In other words, you had Weiner and now you have Miller. Has the authority remained the same or has it changed, the authority of the chairman?

A By definition the chairman, it is the same.

Q Who is responsible for seeing to it that Kathleen McKaig does the work that she is supposed to do?

A The chairman of the department?

Q Do you supervise Kathleen McKaig?

A No.

Q Does your assistant?

A No.

Q Now, let us turn to Beatrice Schwartz.

What does Beatrice Schwartz do?

[4007] A Primarily secretarial work in the department. Maybe extended secretarial work.

By extended secretarial work, I think I mean something in addition to pure typing and filing.

Whatever else the chairman would ask her to do or maybe other members of the department would ask her to do, she would probably do.

Q Did you hire Beatrice Schwartz?
A No.
Q Who hired Beatrice Schwartz, if you know?
A Oh, that is way early in the game.
Q By the way—
A And that was the chairman of the department.

* * * *

[4012] Q Now, let us turn to the last grant on this page, the Zach grant, 5TO1 MH1110208.
Do you know Adjunct Professor Karp?
A Yes.
Q Do you know Adjunct Professor I. Belmont?
A Yes.
Q Did you interview Professor Karp before he was hired?
A No.
[4013] Q Who hired Karp?
A Dr. Zach.
Q Who hired Belmont?
A Dr. Zach. I approve it, they hired him.
Q Are both Karp and Belmont paid from grant funds?
A Yes.
Q As principal investigator under that grant and department head of the department involved, is Professor Zach responsible for seeing to it that both Karp and Belmont perform the work assigned to them?
A As chairman of the department.

* * * *

[4020] Dean Gittler, we are trying to clarify a point or two.
Excluding the persons named in Employer's Exhibits 144 and 145, which account for, I believe, the full time and part time faculty of the school, are there any other administrative personnel who would supervise these employees in a way that you do?
THE WITNESS: In a way that I do? No.
HEARING OFFICER: Do you have any assistants [4021] who would exercise your duties in your absence?
THE WITNESS: With my authority, no.

HEARING OFFICER: There are no assistant deans?
THE WITNESS: No.
HEARING OFFICER: Is there any other official of the college who would exercise a supervisory responsibility over these employees at the school?
THE WITNESS: Schoolwide, no.
HEARING OFFICER: Any question, Mr. Kramer?
MR. KRAMER: No, I think that makes the point that we are trying to make.
HEARING OFFICER: Let us continue.

BY MR. KRAMER:

Q Dean Gittler, do you take vacations?
A Intermittently.
Q About how many weeks a year?
A A week and a half.
Q Dean Gittler, have you also in recent months, and by that I mean the last eighteen months, been ill?
A Yes.
Q For protracted periods?
A Yes.

* * * *

CROSS EXAMINATION

* * * *

[4024] Q Dean Gittler, you have been Dean of Ferkauf since 1966; is that correct?
A Yes.
Q In the course of your service as Dean to the Ferkauf Graduate School have other University officials assisted you or worked with you in the administration of certain responsibilities?
A At the Ferkauf School?
Q Well, involving or affecting the faculty of the Ferkauf School.
A I used to have an assistant dean and she assisted me, and—
Q Does Vice President Sokol play any role in conjunction with you or on his own part that affects the interest of the faculty at the Ferkauf School?
A Yes.
Q Will you describe that role?
A He ultimately has to approve the budget that is submitted to him. That is the major role.

Q And will he at times suggest modifications [4025] for the budget to indicate to you policy in fixing the budget?

A Indicates policy to me in terms of what the maximum budget may be.

Q And will he take part in the settlement of any salary terms for faculty?

A In recent years, yes.

Q Has he in fact negotiated with your faculty over their salary terms?

A Not since he became president.

Q When was the last time he did do so?

A He never negotiated with the faculty. The previous vice president did.

Q And has Mr. Rabinowitz as a member of the Budget Committee also taken part in discussions with your faculty affecting their salary?

A Affecting the budget.

Q As the budget affects faculty salaries?

A Yes.

Q Has Vice President Fishman ever consulted with you and or your faculty with regard to academic matters affecting your faculty?

A Yes.

Q Could you describe such areas of concern?

A The most academic matters that Fishman—Dr. [4025] Fishman would want to perhaps have in mind to institute came from him to me and they always were matters of discussion with the faculty, and I cannot think of any instance where he actually instituted academic matters per se, indirectly.

Q Is it fair to say there is an interplay between your faculty and Vice President Fishman?

A Not very much. I interplay with the Vice President more than anybody else.

Q So then you are an intermediary of sorts of certain policies between Dr. Fishman and your faculty?

A Yes.

Q Will you deal with the Registrar of the University in any policies affecting the faculty at the Ferkauf School?

A During the six years I have never dealt with the Registrar dealing with matters affecting the school other than in conjunction with what we call the chairmen's group dealing with the Registrar.

Q But the Registrar will be involved with the chairmen's group or with faculty in setting a certain policy?

A About once a year.

HEARING OFFICER: Could you expand on the chairmen's group, please?

[4026] THE WITNESS: The chairmen's group constitutes a group that meets—of all the chairmen, and meets with the Dean on the average of about twice a month.

HEARING OFFICER: What do they discuss? What is the purpose of the group?

THE WITNESS: The chairmen's group considers about every matter dealing with the functioning of the Ferfauk School.

HEARING OFFICER: Could you give us an example?

THE WITNESS: The chairmen's group considered tuition increase. The chairmen's group considered the formula and the policy and came to the conclusion regarding workloads for faculty.

The chairmen's group considers basic potential curriculum innovations, frequently before it goes to the Curriculum Committee.

The chairmen's group considered, always considers, when there is something to consider, budget matters of the school.

Is that enough?

MR. SHECTMAN: This was brought out, Mr. Hearing Officer, in all due respect, at some length in direct examination by other witnesses.

MR. KRAMER: We have no objection to the [4027] record being made crystal clear in this regard.

HEARING OFFICER: Go ahead.

BY MR. SHECTMAN:

Q If we may stay with the chairmen's group for a moment, you indicated, did you not, that some of the

conclusions or positions that may be arrived at in the course of these meetings will thereafter be presented to the faculty as a whole in most cases?

A Some. Most of them. If the By-laws call for presentation to the faculty.

Q And do the department chairmen appear at those meetings as representatives of the faculty of their department?

A I considerthem as such, but as a group they represent the school as a whole.

Q And individually they represent their respective faculties?

A Yes, but not always in the discussion.

Q Does the Executive Council of the University make policy ever affecting the Ferkauf Graduate School?

A Yes, after things come up to the Council from various sources.

MR. KRAMER: I don't think the witness understood the question. How do you spell that council?

Q I am referring, Dean Gittler, to the body [4028] entitled Executive Council authorized under the faculty handbook.

Did you understand the question and answer accordingly?

A Yes.

Q Is it not true that the full-time workload of the full time faculty at the Ferkauf Graduate School is established or set pursuant to University-wide policy?

A No, the workload of the Ferkauf School was established by the chairmen.

Q You testified, did you not, that the workload is twelve credit hours or contact hours, or its equivalent, did you not?

A Equivalent, yes.

Q Is the standard for full-time employment twelve contact hours or its equivalent a University-wide policy?

A That was my understanding, yes, initially.

Q So then you are saying that the decision would be made at Ferkauf concerning the definition of the equivalent status?

A Yes, but in fact there is definition from that standard of twelve hours or equivalent by the Ferkauf School faculty and no flak.

* * * *

[4036] Q With regard to the By-laws of the Ferkauf Graduate School, you indicated, did you not, that there was a Faculty Committee that worked in forming these By-laws.

A I said I believed there was a committee that worked up these By-laws before I became Dean.

[4037] Q Do you know whether it was an Advisory Committee?

By Advisory Committee you mean what?

Q Did it make a recommendation as to these By-laws and submit it to someone for approval?

A Yes.

Q To whom were the By-laws submitted for approval?

A The Dean and the President.

Q Subject to the approval of both?

A I think so.

* * * *

[4038] Q You indicated that there exists approximately seven standing committees at the Ferkauf Graduate School. Do you attend most committee meetings?

A No,the administrative assistant attends for me just as a listener and takes notes sometimes.

Q And reports the results of those meetings back to you?

A Not always, but she should.

Q And do you personally ever attend any of these committee meetings?

A Yes.

[4039] Q Are you entitled to participate at those committee meetings?

A By participate you mean discuss?

Q Yes.

A Oh, yes.

Q Will you vote in any of those meetings?

A I don't know whether I can, but I never have.

Q Will you voice your opinions at those meetings?
A Oh, yes.

* * * *

Q Did the Curriculum Committee ever make a recommendation to drop the Educational Psychology and Guidance Department?
A The Department was never dropped. They never made such a recommendation, as far as I know.
Q To the best of your knowledge, they did not?
A No. Dropped the Department?
MR. KRAMER: What department was that?
MR. SHECTMAN: Educational Psychology and Guidance.
[4040] THE WITNESS: No department was ever dropped.
Q Did the Curriculum Committee ever make a recommendation to reformulate or otherwise restructure that department?
A No, except that there was a time when the Curriculum Committee evaluated all the programs in all the departments. I don't remember how far they got, but evaluating all the programs and those evaluations went to those respective departments where it was left up to the department as to what they wanted to implement.
Q Did the Curriculum Committee ever recommend to drop the Guidance part?
A No, it didn't; to declare a moratorium, not the curriculum.
Q Was such a moratorium declared?
A Yes, a moratorium, that we would not admit students.
Q And that was declared?
A Yes, by the department.
MR. KRAMER: What he means, was it effectuated?
MR. SHECTMAN: This can be subject to cross-examination.
MR. KRAMER: I don't know, Mr. Hearing [4041] Officer, that leaving the record as confused as it is—I know I am confused by the answer.

HEARING OFFICER: We have allowed clarification questions from both sides throughout the hearing. If the question is simply clarification—
MR. KRAMER: The question will be.

BY MR. KRAMER:

Q Do you mean the moratorium was effectuated that no students were admitted; is that what you were saying?
A To the gardens in the department.
MR. KRAMER: That is all I am asking.

BY MR. SHECTMAN:

Q You indicated that there was a Tenure Council, did you not?
A Yes.
Q When was the last time it met?
A The year before last, I think. I think in '72-73 or '73-74.
Q Can you recall more specifically?
A Probably '72-73. I believe that is correct.
Q Was this Council formed at your request?
A Yes.
Q Does it meet at your request?
A It meets when there are candidates to be [4042] considered for tenure and I become aware of it so I call the Council.
Q Who has the final authority in granting tenure?
A The President.
Q Do you have any veto powers over the considerations or recommendations of this Tenure Council?
A Yes.
Q Have you ever exercised such powers?
A Once.
Q And when was that?
A I don't remember the year, but I remember the individual. Do you want it that way?
Q Yes. What was that person's name?
A Allen Cohen.

Q Can you give us some approximation what year it was, to your recollection?

A Either '71-72 or '72-73.

• • • •

[4043] Q Has Vice-President Sokol or any other University administration official ever taken part in setting admission quotas to the Ferkauf Graduate School?

A Specifically?

Q Or in general.

A In general they have suggested several times to try to take in more students. Specifically, the departments determine the number and the programming, people in the department determine the number of students to be admitted.

Q Is that subject to the approval of the University administration?

A No.

Q Is it your testimony that that is absolute authority to set quotas, whatever they may be?

A Since I have been Dean the number of students [4044] that were admitted and the number of students that they wanted, the number of students that the department wanted to admit, rested with the department.

Q Have you ever made recommendations as to—

A Yes, I have talked to chairmen now and then and suggested that they try to take in more students if it is possible.

Q Have those recommendations been heeded at any times?

A Yes.

Q Are they heeded at most times?

A No. In fact, rarely heeded.

Q Are you on the Promotions Committee?

A Yes, I'm on all committees ex officio.

Q Do you personally normally sit with the Promotions Committee?

A No, not only, but most frequently.

Q Most frequently you do sit with the Promotions Committee?

A Yes.

Q And at those meetings do you voice your opinions?

A Sure. Opinions?

Q Yes.

A Not relative to candidates, but answer queries [4045] from members of the department, members of the Promotions Committee regarding data and facts about a candidate, and I voice opinion about criteria for promotions.

Q Is not the role of this committee to make recommendation to you for promotion?

A Yes.

Q That is pursuant to the Faculty By-Laws, is it not?

A Yes.

Q Have you ever refused to act on a recommendation of this committee?

A Yes, once.

Q And with regard to what person?

A Ruth Lesser.

Q Did this committee ever make a recommendation as to the promotion of Vera John?

A I think so, but I would have to look it up.

Q Didn't this committee recommend the promotion of Vera John?

A Yes.

Q Was Vera John ever promoted pursuant to that recommendation?

A No, because she resigned before I acted on the promotion.

Q How much time was that after the recommenda- [4046] tion from this committee?

A The end of the academic year.

Q When did the committe makes it recommendation for the promotion?

A In the spring, I think, of that year.

Q Did you indicate what action you would have taken?

A I indicated that I'm not going to act on it, not turn it down. I wasn't going to act.

Q Have you ever at other times indicated an intent not to act on a promotion?

A Yes. Not to act means abstain.

Q That is correct, and that would preclude the promotion for as long as you abstained, would it not?

A It is up to the President.

Q In fact, did that not occur with Professor Jablonsky?

A What?

Q Your abstention.

A Yes.

Q And was it not three years after the committee's recommendation for her promotion that she was in fact promoted?

A No, two years.

Q Are you sure of that?

[4047] A I think I'm sure.

Q You think you are sure or you are sure?

A To the best of my knowledge now, I think it is two years.

Do you want me to look it up? I will look it up.

Q Do you have those records before you?

A No.

Q If you abstained, does that recommendation go directly to the President?

A He is informed that I abstained vis-a-vis a given candidate.

Q Has he ever overridden your abstention?

A He consults with me and he did it with—he doesn't override an abstention. Gives the President freedom to decide without a recommendation from me. There is nothing to override.

Q In the case of Professor Jablonsky, however, when you abstained, did the President contact you on that?

A Yes.

Q What was the outcome of that discussion or conference?

A He gave her a promotion.

Q Two years later?

A I think so, effective two years later.

[4048] Q Was your recommendation to defer such a promotion?

A I made no recommendation.

Q Has there been any time you recommended a promotion when the President has not granted that promotion forthwith?

A No.

Q Pardon me?

A No.

Q So that in reality or in practice a positive recommendation from you has in fact meant an immediate promotion?

A That is not the whole situation. A positive recommendation from the committee and me.

Q You indicated that your budget is a major determinant in choosing a rank for incoming faculty.

A In the last few years.

Q Who ordered the freeze of your budget?

A The President, a few years ago.

* * * *

[4050] Q Dean Gittler, is the sabbatical policy which covers the Ferkauf faculty established pursuant to the faculty handbook?

A Yes, with a recent modification of it by the President. I think it is a modification.

The handbook may enable the President to modify it the way he did.

Q And those policies governing sabbaticals, govern the entitlement of your faculty to sabbaticals?

A Yes. It isn't automatic, though.

[4051] Q In the last few years did a Professor Alvin Atkins request a sabbatical?

A Yes.

Q Did you deny his request for a sabbatical?

A I don't think I denied it but I think I took it up with the department and raised a question of what would happen with the program if he were to go on sabbatical.

Q Did you take the final action in notifying him of his entitlement of, of a non-entitlement of that sabbatical he requested?

A I don't think it reached that point. I think that everybody saw that there would be enormous difficulties

involved, so either it was withdrawn—I don't remember writing him saying "Your sabbatical is denied."

Q You indicate department chairmen have access to secretaries, did you not?

A Yes.

Q And do all members or these full-time members of your faculty have access to secretaries?

A They have access to the departmental secretaries.

Q Can any faculty member direct a secretary to perform a certain function or a certain job?

[4052] A I think so.

Q If scheduling permits?

A And it is up to the chairmen, I think. I don't know where a faculty member goes if he wants work by a departmental secretary. I assume the faculty member takes it up, goes directly to the secretary or goes to the chairman.

Q When a new chairman is chosen does that chairman hire a new secretary automatically?

A They haven't.

Q Generally, the secretaries will continue from chairman to chairman to chairman?

A Yes, they have, I think, especially since the union came in.

Q And they will continue working with the department as it may exist or change from year to year?

A Yes.

Q You indicated there was a Council on Grievances and Appeals.

A Yes.

Q You indicated that was made up of senior members of the faculty.

A Some senior members of the faculty.

Q And five students.

A Yes.

[4053] Q What do you mean by senior members of the faculty?

A Those that have been—one, most of them have full professor status, and then, two, that they have been on the faculty. Nobody is on that committee that has been

on the faculty less than about half a dozen years, three, and by senior members—let me run through my mind.

I don't think anybody is on that committee who isn't tenured faculty. That is another definition of senior members.

Q And of those faculty members senior to any department chairmen?

A Yes.

Q How are department chairmen chosen?

A Recommendation from the department to me.

Q Is that usually by way of consensus or election?

A I don't know. It comes to me as a recommendation from the department through the chairman and whether they vote or they reach a consensus internally, I don't know.

Q But it would be one or the other?

A I should think so.

* * * *

[4056] Q Who ultimately notifies the part-time faculty member of his or her temporary appointment?

A When the department recommends X to teach course Y, in accordance with the money that is allowed for part-time faculty in the department, they get a letter from the Dean's Office saying, "You will receive so much and so much money for doing this and that."

Q Does that letter issue under your name?

A Yes.

* * * *

Q Who sets the prevailing rates for part-time faculty?

A I inherited prevailing rates and have changed them in a few instances only by increasing them.

* * * *

[4060] A Sure I'm familiar with the Welfare Committee.

Q Can you tell me what its purpose is?

A I'd be accurate if I had the By-laws in front of me.

Q I am asking now in practice rather than—

A In practice they were involved primarily in the following:

The Twelfth Committee was very much involved when I asked them in 1967 or '68 to set up a salary scale for the school, and they were very active in that. That was one of the major understandings.

I have asked a combination of the Welfare Committee and the Steering Committee to work on and give me their posture relative to tenure proportionality in the school and that is two actual involvements.

Those are the two major things that they have been involved in.

Q They do have authority, do they not, to consider such issues as sabbatical leaves, sick leave, life insurance?

A Yes, but whether they ever dealt with it, I don't know. I don't think so.

* * * *

[4063] Q In 1973, prior to the filing of any petition before the Board by Yeshiva, did Vice President Sokol meet with your Welfare Committee with regard to any pro- [4064] posal for salary adjustments?

A Not only he but the University Budget Committee met with the Welfare Committee.

Q Who was on that committee?

A Jack Rabinowitz and Sokol and Silverman. Silverman wasn't present.

Q Who was on the Welfare Committee?

A Oh, I don't know. I have to look it up.

Q Were discussions undertaken in those meetings, to the best of your knowledge, as to any adjustments of faculty salaries?

MR. KRAMER: I must object. What difference does it make what the discussions were at those meetings to this proposal or this proceeding or this petition?

HEARING OFFICER: First of all, was Dean Gittler there?

THE WITNESS: Yes, I was there.

Q And did the faculty present any proposals?

HEARING OFFICER: The objection has been overruled. It was overruled previously.

A Yes, they did.

Q Was there any action taken on those proposals?

A No, not to the extent of their request to.

[4065] I don't know whether the increments that the University came to was in answer to it. I guess not. I don't know. Requests for their demands.

Q Have department chairmen served on the Welfare Committee?

A Yes, I think so.

Q Who is currently the chairman of the Welfare Committee?

A If I knew you were going to ask me these things I would have brought all the memorandums, but I'm guessing now. I think the chairman of the Welfare Committee is Kasdon, I think, but I stand corrected.

Who is chairman?

Q Would it refresh your recollection if I informed you that Professor Miller is?

A I beg your pardon. Miller is chairman, I forgot. Miller has been chairman several years.

MR. KRAMER: I ask for a stipulation that he is also president of the Faculty Association.

MR. SHECTMAN: So stipulated.

HEARING OFFICER: I receive the stipulation for what it is worth.

Q And may those persons who are acting as principal investigators serve on the Welfare Committee?

A If they are full-time members of the faculty.

[4066] Q Are any part-time members of the faculty on the Welfare Committee?

A No.

Q Did the Welfare Committee proposal that we have referred to or any other Welfare Committee proposal you are aware of ever cover salary increments for part-time faculty?

A I don't recall a recommendation along that line. May have been. I don't recall.

Q The original salary schedule you referred to—

A Let me make a point about that recommendation.

Whatever came through as a report from the Welfare Committee at that time, I don't think I paid very much

detailed attention. I immediately called a meeting of the —immediately—I called a meeting of the University Budget Committee with the Welfare Committee and I didn't engage in any kind of discussion on what was being recommended.

Q What was the purpose of your convening the Budget Committee?

A I didn't convene the Budget Committee. I convened a Welfare and Budget Committee.

Q What was the purpose?

[4067] A To discuss what the Welfare Committee was recommending.

Q And would it be within the authority of the Budget Committee to grant or deny such a proposal?

A I think not. I think it would have to be taken up the line.

Q And that would be to whom?

A The President, I think.

Q The original salary schedule worked out by the Welfare Committee was approved by whom?

A By the then Vice President and the Vice President in charge of finances and the President.

Q Did that salary schedule include part-time faculty?

A No.

Q It included all full-time faculty?

A Yes.

Q Did it include department chairmen?

A As such?

Q Yes.

A Salaries as chairmen?

Q Yes.

A No.

Q They received the same salary pursuant to the schedule as any other faculty?

[4068] A By rank, yes.

Q By rank and tenure?

A No, by rank.

Q By rank and term of service?

A Yes.

Q Did it also include principal investigators solely in terms of their rank in terms of service?

A Yes.

Q Was that proposal for the salary scales approved by the entire faculty?

A Yes, at a faculty meeting.

Q Was it presented to the faculty by the Welfare Committee?

A Yes.

* * * *

[[4077] Q Who normally makes the final determinations as to tenure?

A The President makes the final tenure appointment.

Q And does he do so according to the tenure policy of Yeshiva University?

A Yes, but he can waive things. But this was my understanding and it is that now.

* * * *

[4082] Q Is that true for all grants, that the principal investigator will hire persons under the grant and be compensated by grant funds?

A As far as I'm concerned, I have accepted [4083] all recommendations from principal investigators.

Q So that in effect they do hire persons under the grant?

A Yes.

* * * *

Q Do principal investigators have the authority to hire consultants under grants?

A Yes, where the grant allows it.

Q And they may designate the consultant fees therefor?

A Yes.

Q And they may hire technical and clerical persons under that grant?

[4084] A Yes.

* * * *

[4090] HEARING OFFICER: Is there any recourse beyond the principal investigator's decision to discharge an employee?

THE WITNESS: Yes.

HEARING OFFICER: To what extent?

THE WITNESS: One or two appealed to me and I usually went along with the principal investigator. Sometimes I would ask the principal investigator to talk to me about his decision or his recommendation.

HEARING OFFICER: And you said this was one of two.

THE WITNESS: Who protested—

Q Have you ever countermanded such action on the part of a principal investigator?

A No. Principal investigators are always right.

* * * *

REDIRECT EXAMINATION

* * * *

[4098] Q The Budget Committee you referred to is [4099] a Budget Committee University-wide; is that right?

A The one I refer to. I consider my chairman the Ferkauf Budget Committee.

Q You said in response to a question, I am going to paraphrase it, in question with the department chairmen and how they speak at chairmen group meetings, you said that you consider them representatives of the department and as a group representatives of the school as a whole. And then you were asked if they were representatives of the faculty in the departments and you said that during the group meetings they didn't always behave in that fashion.

I would like you to explain that last comment, Dean Gittler.

A Yes. See, I work very closely with the five chairmen and we take up very frequently across the board school matters, not necessarily single departmental matters.

There are lots of those, and when we take up Ferkauf School-wide matters they talk and deliberate to this point. That is what I meant by they collectively engage in the deliberating on school-wide matters, not necessarily solely departmental positions.

What was your other point?

Q That was all.

[4100] A And the chairmen run the school. I'm not being facetious either.

* * * *

Q In connection with meetings of the Tenure Council, you testified on cross-examination that the last meeting, to the best of your recollection, was in '72-73. That means, does it not, Dean Gittler, that the committee did not meet in '73-74?

A That's right.

Q Why is that?

A Because there were not tenure candidates.

Q Are there any tenure candidates this year or is it too early to ask that question?

A No, right now I have no evidence of tenure candidates yet for next year.

* * * *

RECROSS EXAMINATION

* * * *

[4106] Q With regard to your full-time faculty, what is the lowest amount that assistant professor receives?

A Ten plus. Between ten and eleven thousand.

Q That is per annum?

A Per academic year, not per annum.

Q And an associate professor?

A I could have brought it. Associate professor, you jumped—wait—associate professor, around fourteen.

Q Full professor?

A Around 16,000, 15, 16,000, the lowest.

* * * *

[4120] Whereupon.

MANFRED WEIDHORN,

having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SCHECTMAN:

Q Professor Weidhorn, who is your employer?

A Yeshiva University.

Q Where are you employed?
A At Yeshiva College of Yeshiva University in Manhattan.
Q In what position are you employed?
A I am professor of English.
Q And what is your educational and professional background?
A I received a bachelor's degree from Columbia College and a master's degree from the University of Wisconsin and then a PhD from Columbia University Graduate School in English, and I taught for a year at the University [4121] of Alabama, and then three years at Brooklyn College and then I came to Yeshiva in 1963.
Q And have you been in the continual employ of Yeshiva University since 1963?
A Yes.
Q All right.
Were you appointed as a full-time member of the faculty?
A Yes, I was.
Q And by whom were you employed?
A By President Belkin.
Q In what form did you receive notice of your appointment?
A In a letter at that time.
Q That letter was from President Belkin?
A Yes.
Q And what rank of the faculty were you appointed to?
A Assistant professor.
Q And currently what rank in the faculty do you hold now?
A Full professor.
Q Are you a tenured member of the faculty?

• • • •

[4122] When I had put in the requisite number of years I didn't receive anything, so I went to see Dean Bacon at the time and I indicated—because, you see, the years that you have put in teaching elsewhere count, you have

a half—in other words, a full year elsewhere is worth half a year towards your tenure status.
And I went to see Dean Bacon at the time about this and he said that I didn't have to worry about tenure.
My wife, however, was working in advertising at the time and she said you'd better get a piece of paper.
So I went back and sometime thereafter I received a letter but I don't recall whether it was from the dean or from the president.
Q And when did you become a tenured member of the faculty?
A That was in 1968, I believe.

• • • •

[4123] Q Are faculty at Yeshiva College compensated according to a salary schedule?
A Yes, they are.
Q And do you receive any supplement to your place in that salary schedule for additional work?
A Yes, I do.
[4124] Q And what additional work do you perform?
A Six credits or contact hours.
Q How many contact Hours would you be required to teach to receive regular payment pursuant to the salary schedule?
A 12.
Q And you said you teach—
A Six extra.
Q And you receive compensation for those?
A Yes, I do.
Q Do you serve on any committees of the college or of the university?
A Yes.
I serve currently as chairman of the welfare committee.
And I have served on various other committees.

• • • •

[4125] Q And have you served on any other committees?
A The curriculum committee for three years and I was chairman of that for I think for the last three—the last of the three years.

Q And at what period did you serve on that?
A That must have been '67, '70, give or take a year.
Q Are you still generally familiar with the functions of the curriculum committee?
A Excuse me.
Maybe that was a little later than that.
I am not quite sure about the years.
Yes, I am familiar with the functions of the curriculum committee.
[4126] Q Could you describe the general subject matters considered by that committee?
A Well, I think that they—theoretically it is consideration of adoption of new courses or any question having to do with the curriculum.
But in practice or at least in the years that I have been there, I don't recall any review of the curriculum—

* * * *

[4129] A The—I was saying that the function of the committee was to consider proposals for courses and to consider the curriculum as a whole, but that in the years that I was there I don't recall any curriculum review and I remember at the time there was a faculty member who still is with [4130] us, who was a member of the committee and complained that we were asked to judge on courses without reference to any over-all curricular goal or guidelines or standards and that shouldn't the committee first consider some sort of a curricular goal and set it down and then judge courses accordingly.
And—but there was never any follow-up to this criticism, so the committee usually just dealt on an ad hoc basis with proposals for courses.
Q Does the committee still exist?
A Yes, it does.
Q And does the committee report to the faculty as a whole?
A It does.
Q And does that—is that through the faculty assembly or faculty senate?
A The—to the faculty assembly that I know of.

Q And who initiates proposals to the committee about new courses when you were—when you were on the committee and to the best of your knowledge?
MR. KRAMER: It has to be a showing of knowledge.
MR. SHECTMAN: If you have any knowledge.
MR. KRAMER: As to his knowledge as to who initiates proposals now.
MR. SHECTMAN: Let me ask the questions.
[4131] Q Who initiated proposals to the committee when you were serving on it?
A I wouldn't know that so much as chairman of the committee as someone who was involved in introducing new courses.
Because, you see—the new idea for a course usually first is considered by the department and then the division and then it comes to the curriculum committee but as a person himself involved with the giving of new courses, I know that at the beginning of it involves either the dean going to a faculty member or faculty member going to the dean with an idea for a course, and then that is presented to the department, the division, the committee.
Q And then ultimately the committee?
A Yes.
Q And that is the current practice?
A Yes.

* * * *

[4137] Around 1966 or '67, Professor Ernest Simone was then teaching the French Department, had newly arrived at the Yeshiva and whom I had known at college—at Columbia College, approached me with the idea of giving jointly a course in literature.
Whether he had broached this with the dean or the dean with him I don't know, but then we followed it up, put together a syllabus and went through the various—through the machinery in getting the course approved.
Q Will you describe that machinery?
A We went to the English department.
Then the division of humanities and then the curriculum committee.

Q And did the curriculum committee approve or reject that proposal?

A It approved it.

Then the course was such a success that we decided to follow it up with a second semester and we went through the machinery again, getting first the dean's approval.

[4138] Then the third occasion—

* * * *

A The third occasion was when Professor Edward Levy, who had newly arrived in the music department approached me and told me that the dean had suggested to him that he might want to give a course jointly with me in literature and music and that went through the machinery and was approved.

Q It went through the respective—

A Yes, the English department, the division and curriculum committee.

Q And again the curriculum committee either approved or rejected—

A Passed it.

[4139] And then there is a fourth—a fourth occasion when the dean suggested that I might be interested in giving a course jointly with a member of the history department, but nothing came of that.

HEARING OFFICER: When was this?

THE WITNESS: About three years ago, three or four years ago.

HEARING OFFICER: You were approached as a member of the faculty not as chairman of the committee?

THE WITNESS: That's right.

Q Are you familiar with any occasion on which the curriculum committee has approved a course and the course has not been taught?

A No.

Q Were you on the curriculum committee when a proposal for a parliamentary procedure course was submitted?

A I don't recall but I am familiar with that incident because—

Q How are you familiar with it?

A I wrote a memo on which I suggested that the committee had no useful function and should be disbanded.

Q What was the basis of that memo?

A Well, there was a course in parliamentary procedure which was approved by the speech department and then it came to the division of humanities—I don't recall how [4140] the vote went in that division but there the objection was first raised that this was not a course that properly belongs in a liberal arts college—

Q Were you at that division meeting?

A Yes.

It's sort of a how to course and it doesn't fit the educational philosophy of a liberal arts college.

I don't recall how the vote went but the same objection arose in the curriculum committee and they voted it down but the course was given anyway.

Q And under whose direction was that course given?

A Prof. Abraham Tauber.

And so I then wrote a memo—

Q Were you on the curriculum committee at that time?

A I am not sure whether I was or not, but I wrote the memo indicating—

Q To whom did you write the memo?

A I believe it was addressed to the senate, the faculty student senate, that since—whether the committee approves or disapproves the course, the course was given anyway, it was a waste of faculty's time, of the members of the committee to meet at all.

Q Was the course proposal for the parliamentary procedure [[4141] course after it was rejected by the curriculum committee passed on by the faculty assembly or faculty—

A Not the faculty assembly.

The faculty senate.

Q And did the faculty senate act on the course?

A I am not clear as to what happened there.

MR. KRAMER: Can we get the terms clear because there is a faculty—a senate and an assembly.

THE WITNESS: It's faculty assembly and faculty student senate.

MR. KRAMER: Where was this letter written?

THE WITNESS: It was addressed to the senate, the faculty student admission senate.

MR. KRAMER: Okay.

* * * *

[4142] Q You testified that you were on the welfare committee of Yeshiva College.

A Yes, I am.

Q What is your position on that committee?

A I am currently the chairman.

Q Who else serves on the welfare committee?

[4143] A Linn Tauber, Siev Chernowitz, Lainoff.

Q Are any of those persons department heads or division heads or senior faculty members?

A Yes, two or three area.

Q Which ones?

A Tauber is a department head of speech.

Chernowitz is of art.

And Dr. Siev is head of some department, I am not too sure what.

Q Does membership—strike that.

Are all of those persons full-time members of the faculty?

A Yes.

Q How long have you been on the welfare committee?

A Since my second year—well, yes, it's almost two years now.

Q And what is the role and function of the welfare committee?

A To take up matters of faculty remuneration, fringe benefits, and faculty—grievances that individual faculty members have.

Q Has or does the welfare committee at Yeshiva College work jointly with any other welfare committee?

A In 1968 it was—it began working jointly with the Stern College welfare committee.

[4144] Q And is it currently still working with the Stern College Welfare committee?

A Yes, it is.

* * * *

[4151] Q As president of the Yeshiva College welfare committee do you have control and responsibility over its records?

A Yes, I do.

Q And do you maintain those records?

A Yes, I do.

MR. SHECTMAN: I will offer to be marked for identification as Petitioner's Exhibit 107 a letter dated February 29, 1968 addressed to dear colleagues at Yeshiva College, and at Stern College.

(Document referred to marked Petitioner's Exhibit 107 for identification.)

Q I show you Petitioner's Exhibit 107 for identification.

Did you obtain this exhibit from the files and records of the welfare committee?

A Yes.

Q And as a member of the faculty in 1968 did you receive a copy of this exhibit addressed to the colleagues of Yeshiva College?

A I must have.

I don't recall.

Q Can you identify Irving Linn?

A He is a present member of the welfare committee.

[4152] He has been off and on it for many years.

Q And do you know Beatrice Friedlands?

A Yes.

She was until recently still a member of the Stern College Welfare committee.

Q And were the recommendations on page 5 of this exhibit accepted and implemented as the salary scales at Yeshiva and Stern College?

A All except item D.

* * * *

[4155] Q Did there come a time when those salary schedules developed and were established according to Petitioner's Exhibit 107, page 5, were frozen or taken out of effect?

A Yes.

Q Could you describe the circumstances?

A In the third year of 1970, '71, the salaries were frozen.

Q And were any promotional increments granted in the academic year 1971, 1972?

A I am not clear that there were even promotional increments in those days.

MR. SHECTMAN: I would like to offer as Petitioner's Exhibit 108 for identification a letter on Yeshiva [4156] University stationery dated December 31, 1970 to Dear Colleague, from Samuel Belkin, president.

(Document referred to marked Petitioner's Exhibit 108 for identification.)

Q I show you Petitioner's Exhibit 108 marked for identification.

Does this refresh your recollection as to the last question?

A Yes, it does.

Q Could you now answer that question?

A Yes.

The announcement of the freeze came in the year 1970-71 and the freeze took place in '71-72.

Q And did that freeze affect all salaries commenced for that year, '71-72?

A Yes.

Q And did it also freeze any promotions?

A That I don't know.

Q Let me call—

A Yes.

Well, it says so here, but whether that was—that part—whether that part was implemented, I don't know.

I know about the salaries being frozen.

• • • •

[4165] Q Did the welfare committees or the joint welfare committee of Yeshiva College and Stern College respond to that letter of president Belkin marked in evidence as Petitioner's Exhibit 108?

A They protested to the president.

MR. SHECTMAN: I offer for identification a letter dated December 8, 1970 to president Belkin from the—from Beatrice Friedland, chairman, faculty welfare committee at Stern College.

(Document referred to marked Petitioner's Exhibit 109 for identification.)

Q Did the joint welfare committees of Stern and Yeshiva College jointly and/or individually take a position with respect to the salary and promotional freeze?

A The—I understand that some presentation was made to the administration asking that this be considered only a deferral of payment and not an absolute freeze or cancellation.

[4166] Q And did you obtain a copy of Petitioner's Exhibit 109 from the business records of the welfare committee at Yeshiva College?

A Yes.

Q Did you obtain it from the files you keep of the welfare committee?

A Yes.

• • • •

[4172] Q Has the salary schedule for full time faculty at Yeshiva College been recently amended?

A Yes.

At our renewed negotiations in 1974 and new increases were promulgated.

Q Who took part in those negotiations?

A The welfare committees of Stern and Yeshiva College.

The business affairs vice president.

The deans of Yeshiva, Stern and Erma Michael Colleges.

And one or two other members of the administration.

Q Do you recall who those persons were?
A Mr. Ellenberg.
I am not sure, I believe Mr. Fishman sat in on one session.
Q And did these negotiations establish any increase for part time faculty?
A No.
Q Did they establish increases for all full-time faculty?
A Yes.
[4173] Q Did they establish any separate increases or increments for department heads?
A None that I know of.
Q For Senior professors?
A None.
Q Division heads?
A None.
Q Did any part-time faculty take part in those negotiations?
A Not as far as I know.
MR. SHECTMAN: I offer to be marked as Petitioner's Exhibit 110 faculty welfare committee proposal of October 5, 1974.

(Document referred to marked Petitioner's Exhibit 110 for identification.)

Q I call your attention to Petitioner's Exhibit 110 for identification.
Was this proposal accepted and implemented as a salary for the faculty at Yeshiva College?
A Yes.
Q Does it currently obtain?
A Yes.
Q And was it likewise accepted for the Stern College?

* * * *

[4174] A Yes.
Q Have matters other than salary been considered by the welfare committee in its most recent negotiations with the university?
A The question of pensions and fringe benefits was raised.

Q And has the issue of retirement also been considered there?
A The question of retirement has been in the air or has been considered in the past two years—few years, but in [4175] this current year when the committees raised the question of retirement, the vice president, Sokal, indicated that he was under legal constraints and therefore was not prepared to discuss the matter.
Q And with respect to pension issues curing the bargaining did vice president Sokal also take the position in that regard?
A He indicated that the whole question of pensions and fringe benefits had been turnel over the—turned over by the administration to some sort of an agency to review.
He therefore didn't want to discuss it—the matter, until the agency gave its report, which was eventually done.
Q Did vice president Sokal give you any indication as to who would have the final authority or who would have the authority to make any changes in the pension or fringe benefits package?
A Both in private telephone conversation as well as at one of the meetings between the welfare committees and vice president Sokal I raised the question of how this was—this was in the weight of the presentation by this agency—
Q When was this?
A In the fall of '74.
The agency presented a pension plan and I asked on [4176] two occasisons, vice president Sokal, whether there would be a vote of the faculty to ascertain whether this plan was acceptable and in both occasions he said that it is not the way—something like this can be done.
He said the final disposition would have to be made by the board of trustees.

* * * *

Q —does any faculty member serve on the board of trustees of Yeshiva University?
A None.

[4177] MR. KRAMER: By the way, our standing objection would go to those questions as well.

HEARING OFFICER: Overruled.

Continue.

Q You testified that the welfare committee considers certain individual grievances of faculty members.

Could you give us some example?

A About seven years ago—incidentally, in this salary settlement in 1968 there was some proviso for consideration by the welfare committee for inequities that might result inadvertently as a result of this new salary schedule, and three faculty members felt that they had grievances which they took to the welfare committee.

This is in 1968, '69.

Q Who were those members?

A Prof. Chernowitz, Siev and Weidhorn—

Q You were one of those?

A Yes.

Q Can issues other than salary or inequities in the salary or fringe benefits of individual faculty members be referred to the welfare committee?

A That seems to be the mandate that the welfare committee has.

[4178] They consider any sort of grievance that a faculty member has, such as promotion for example, a matter that the welfare committee took up on the past year.

Q You said there was a mandate.

From whom did that mandate come?

A Well, I mentioned in this 1968 document there was one proviso having to do with the grievances of the overall salary settlement.

And then at a meeting in the past year or so there was a restatement or extension of this mandate by the faculty assembly.

MR. SHECTMAN: I offer for identification as 111 the minutes of the Yeshiva College faculty welfare committee and it is dated October 30, 1974.

(Document referred to marked Petitioner's Exhibit 111 for identification.)

Q Is this mandate to which you referred to consider other individual grievances such as promotion—

A Yes.

Q —set forth in this document?

A The next to last item of the document.

HEARING OFFICTR: On what page?

THE WITNESS: Page 2.

[4179] Q And in fact the faculty approved that resolution at the assembly meeting?

A Passed unanimously.

* * * *

[4181] Q Does the welfare committee or any of its members take part in the formulation of the Yeshiva College budget?

A In no way.

* * * *

[4182] Q Has the welfare committee in the course of any of its meetings, in the course of any faculty meetings, made a request upon Dean Bacon to see the budget of the college?

* * * *

[4183] A The welfare committee has not.

Q Has a faculty member at a faculty assembly meeting in your presence ever made such a request?

* * * *

[4187] A As I said, there was a discussion of pressing the administration for some sort of salary increase.

One faculty member said that he had heard a rumor that dean Bacon had gone to the administration and asked for a salary increase for the faculty and had been told by the administration that he could give a salary increase but that he would have to take it out of his budget, the previous year's budget.

In other words, he would have to rob Peter to pay Payl.

[4188] Whereupon, a professor, and I recall the scene vividly, in mind, I can even identify the professor, Professor Arthur Hyman of the philosophy department said, well, we have Dean Bacon here among us, let us ask him

if this actually happened and the dean rose and said, he could not comment.

* * * *

[4190] Q Now, you heard testimony from Dean Bacon with regard to the effective faculty action, resolutions at assembly meetings?

Do you recall any example where the university administration has failed to carry out a resolution of the faculty from a faculty assembly meeting?

A Well, Dean Bacon has testified that the president, president Belkin has never vetoed anything which the faculty has passed and that may not be entirely correct because about seven or eight years ago the faculty passed as part of statutes or by-laws a section devoted to divisions and departments, and this section has never been approved by the president.

So that we have here a pocket veto in effect.

Q And that in fact was an amendment to the governing documents of the Yeshiva College faculty?

A I am not clear as to whether it was part of the documents or an amendment to it.

Q It represented a change or amendment to the constitution of the Yeshiva, in any event?

A Yes, it had to do with the governments of the school, yes.

[4191] Q Did the dean explain why no action was taken on that resolution?

A Yes.

He said that because the faculty vote approving this section was very close, something in the order of seven to six or some such close vote.

But the point is it had passed.

Q And to whom did he give that explanation?

A To me.

Q To what department do you belong at Yeshiva College?

A The English department.

Q And are there department meetings?

A Yes, there are.

Q Approximately how often?

A I'd say about—between two and four times a year on the average.

Q Can you tell us about the typical subject matter of those meetings?

A Decision may be taken on who will receive the prize for English in the graduating class at the end of the year or whether as in the case of last year, there was a student who had taken some sort of English literature proficiently examined five times and failed it, all five times whether he should be allowed to take it a sixth [4192] time and matters like that.

Q And how is action taken at these meetings?

A By consensus but when there is a difference of opinion then vote, straight vote.

Q Who is the chairman of this department?

A Dr. David Fleisher.

Q What is his role at the meetings?

MR. KRAMER: I must object.

If he wants to ask what Dr. Fleisher does, what he says, but it is conclusory as to his role.

HEARING OFFICER: Sustained.

Q In terms of what Dr. Fleisher says and does at the meeting, what is his role?

MR. KRAMER: Now—

Q In terms of what he says and he does.

HEARING OFFICER: What does Dr. Fleisher do and say at the meetings?

THE WITNESS: Well, he presents the particular matters to be thrashed out.

Q Will other faculty members within the department present on their own matters to be thrashed out?

A Oh, yes.

I must have on occasion.

* * * *

[4193] Q Does the chairman of the department have the right to veto the votes or consensus of the department?

A De jura, I don't know, but he never has so far as I know.

Q And how is department policy set?
A At these meetings.
Q Does the department chairman of the department have [4194] authority to set department policy outside of these meetings?
A As far as I know he doesn't.

* * * *

Q Do members of the university administration as a matter of course attend department meetings?
A No, they don't.
Q Do you recall the last time a member of the administration did attend such meeting?
A Dean Bacon once attended—I forgot the occasion, but I believe there was a discussion on exemption examination or something like that but attended only for that portion of the discussion, that portion of the meeting devoted to that particular question.
Q Was he then asked to leave the meeting?
A No. Just left on his own.

* * * *

[4196] Mr. Shectman, your witness.

BY MR. SHECTMAN:

Q Is there a sabbatical policy promulgated for the faculty of Yeshiva University?
A Yes, there is.
Q And where is that sabbatical policy defined?
A In the faculty handbook.
Q Has there been any change in that policy at Yeshiva College?
A Well, it would seem that in the last two years on the basis of questioning that I have done that an option has been taken away from faculty members which amounts to a de facto suspension of sabbaticals.

The choice used to be between taking a half a year at full pay or a full year at half pay.

As far as I have been able to ascertain no one on the past two years has gotten a half year at full pay and one faculty member at least in Yeshiva College and another one in another school that I have spoken to were

told [4197] that they could only take it at full year at half pay.

And there was no—the faculty was in no way—played no role in this change of policy, wasn't even informed of it in any sort of document.

* * * *

CROSS EXAMINATION

* * * *

[4208] Q On your direct examination did you not tell us that as a result of the problem over the scheduling of parliamentary procedure courses you wrote a memo to the faculty senate, or words in substance to that effect?
A Yes.

But I also recall that I mentioned in this memo some other item of—which I had been shifted from one committee to another without ever being considered and—in other words, I was making several points in that one memo.

Q When did you send that memo?
A Well—
Q You can give us an approximate date.
A Right.

[4209] It must have been let's say between three and five years ago.

* * * *

MR. KRAMER: We would request that the witness—that he produce through counsel a copy of that memorandum should it be within his possession, either in his files, personal files or business files.

HEARING OFFICER: Your request is noted.

MR. KRAMER: I assume that will be produced by you, Professor Weishorn, if you have it—

THE WITNESS: Yes.

MR. KRAMER: —through your counsel.

THE WITNESS: Certainly.

MR. SHECTMAN: If Professor Weidhorn has that memorandum in his possession, we will comply with the request.

On the other hand, we will report whether he does [4209a] or does not have it and otherwise the university, indeed Dean Bacon besides Mr. Kramer might also review

the files of the faculty senate in that period, and might be able to also come up with that document.

HEARING OFFICER: If it exists, it will be produced—

MR. KRAMER: Rather than conduct a file search, we are entitled if the witness has mentioned the memorandum and if he has the memorandum and that the witness produce it for us.

HEARING OFFICER: Counsel stated if he has it he will produce it.

MR. KRAMER: If you don't have it, Mr. Schectman, call me and let me know and we will conduct a search for it.

Q You sent that memorandum to the senate did you not?

A Yes.

Q Did you then take that memo up with the faculty assembly?

A No, I did not.

Q So that that course would have been available to you?

A Yes.

Course meaning course of action.

A Yes.

Q You were a member of the curriculum committee for [4210] three years were you not?

A Yes.

Q You were the chairman for a year?

A Yes.

* * * *

Q No.

I would like my question answered.

Did you testify on your direct examination, as I believe my notes show you did, that you did not know what the purpose of the curriculum committee is—was?

A No, I believe I gave the purpose of the curriculum committee, namely, to consider proposals for courses and to consider a—questions of the curriculum.

HEARING OFFICER: Off the record.

* * * *

Q By the way, on your direct examination, you testified about the parliamentary procedure course.

A Yes.

[4211] Q Are you aware of what the dean's position was with respect to that course?

A You mean now or then?

Q Then.

A No, I don't believe so, at the time.

Q You are now?

A Yes.

Q Would you tell us what the dean's position was from the knowledge you now have?

A He was opposed to it on the grounds that it swayed the curriculum committee.

Q Nevertheless, the course was given, was it not?

A Yes.

Q After your memo went to the faculty—to the faculty student senate?

A I don't recall the sequence of events.

The memo was not written to prevent that course from being given, and it may have been written at a later time—

Q Well, to see when you wrote it—

A Yes.

Q In any event, you did not appeal to the faculty assembly?

A No.

Q As to the course being voted down?

[4212] A No.

Q They would have had the authority to vote that course down, would they not?

A Yes, I guess so.

Q By the way, it is unclear in my mind whether this was a new course, this parliamentry course or whether this was a course that previously had been in existence and that the professor had given it, Prof. Tauber, I believe his name was?

A Yes.

Q Wanted to continue, do you have a recollection on that score?

A As far as I know it was a new course.

Q And the date of this was—when did this take place?
A I am not too clear on it.
Q Approximately.
A I would say between three and five years ago.
Q Now, you told us that in 1966-67 you effectively introduced a new course in cooperation with a Professor Simone—
A Yes, the course was introduced in 1968. The first negotiations began '66-67.
Q In any event, the date you used on your direct was '66, '67.
[4213] A No, I said that's when we first talked about it.
Q And the course was put into effect in September of 1968?
A Spring of '68.
Q Now, you further testified that the course was a success and that you decided to, on the basis of that success, proceed to give another course, is that correct?
A Related to it, yes.
Q By the way, what was the name of the first course?
A The rise of humanism in mideival and renaisance European literature.
Q The second course that grew out of it?
A The decline of humanism in modern and western literature.
Q Now, would you tell us what was the first thing you did which brought this course into being, the first act in the step—among the steps that this led the course to be—to come into being?
A The second course?
Q Yes.
A Prof. Simone and I drew up a reading list and then we took it to the dean.
Q What did you say to the dean and what did the dean say to you?
[4214] A That he encouraged us in every way.
Q I didn't ask you for a conclusion.
A We said—
Q I asked you to tell us what happened at the meeting.

A I have no recollection of the exact wording but I recall that we reported to him on—the success of the course, it's popularity with the students and the great stimulation everybody derived from it and therefore we wanted to extend its scope by adding another semester to it.
Q By dealing with the decline?
A Yes.
Q Is that correct?
A Yes.
So that the students should know how it came out.
Q Now, did you get a letter from the dean that said you could give that course?
A I don't recall getting anything written.
Q You didn't get a memo, you didn't get anything in writing that you could give the course?
A Not that I recall.
Q In fact, you continued did you not to use the other procedures that are available to get the course approved?
A Well, once we had the dean's approval we went to the [4215] English Department.
Q Were you encouraged by the dean or did you have his approval—which did you have now?
A Oh, we were encouraged.
Q The dean is a scholar, is he not?
A Yes.
Q In his own right?
A Yes.
Q What is his field of specialty?
A Linguistic and literature.
Q And this course was a course in what?
A Literature.
Q In the decline of humanism—
A Tracing an idea in literature.
Q And you brought the reading list to the dean?
A We did.
Q And you discussed the reading list with the dean, did you not?
That is one of the reasons you brought it there, I assume?

A Yes, but I think we discussed the general idea, not the merits or demerits of the reading list.

Q And the dean encouraged you to proceed further?

A That's right.

Q You have no letter of approval from the dean, do [4216] you?

A Not that I recall.

Q Where did you proceed further to?

A The English Department.

Q What did you do in connection with the English Department?

A We had to justify the course.

Q Say that again.

A We had to justify the giving of the course.

Q I see.

Now, how did this take place?

A Through a lot of give and take and we had to respond to criticisms from members.

Q Was there a meeting of the English Department on this subject?

A Yes.

Q And was there ultimately a vote taken with respect to whether the course should be recommended to the division?

A Yes.

Q Was that vote affirmative?

A It was.

Q Where did you go after that?

A We went to the division.

Q What do you mean by that?

[4217] A Well, once the proposal had been approved in the department the next step in the machinery is the difference of fine arts humanities and I forget the full title, approval has to be obtained there.

Q How did you go about getting that approval, as best you can recall?

A A meeting was called of the division members and we presented the syllabus, and again answered possible objections or criticisms.

Q Was it approved?

A Yes.

Q Was there a vote?

A Yes.

Q What happened after that?

A Then we went to the curriculum committee.

Q By then, I assume you were no longer chairman of that committee, or were you?

A I may have been on the committee at the time. I am not sure now.

Q All right.

Tell us what transpired in the curriculum committee?

A The same thing.

We had to justify the giving of the course, present the syllabus and answer any questions.

Q Was there a vote in the curriculum committee?

[4218] A Yes.

Q Was it approved?

A It was.

Q Then where did that report of approval go?

A I think that was the end of the line.

I think then the course was given.

Q Isn't it a fact that the curriculum committee reports to the faculty senate?

By that I mean, the faculty student senate.

A Well, at that time I am not sure whether there was a senate yet or it may have been in the process of formation.

Q Isn't it a fact that the curriculum committee is part of the faculty assembly?

A Yes.

Q And has the obligation of reporting to that assembly?

A Yes, it does.

Q But you don't recall whether they reported with respect to your course?

A Because that's just a matter of routine.

Q Except in the case of parliamentary procedure course you mentioned where apparently it was not a matter of routine, is that right?

A Well, I don't recall that this course was reported [4219] to the faculty assembly, the parliamentary procedure course.

Q That was reported to the faculty senate, was it not?
A Well, by that time the senate had come into being.
Q And there was a full dress debate I would assume on your memo about that course and the circumstances surrounding its being given?
A That's hearsay.
I wasn't present at the senate meeting.
Q Where your own memo was discussed?
A In that case I understand it was read aloud and that—this is hearsay, that the dean said it was a week letter, it should be disregarded.
Q Did you seek an opportunity to attend the faculty senate meeting?
A No.
Q And you weren't there to hear whatever the dean may have said?
A I wasn't.
I thought I said all I had to say in the memo.
Q Prof. Tauber wanted to give the course, did he not?
A Yes, he did.
Q And he presented his points of view at the faculty [4220] senate meeting, did he not?
A I would assume so.
Q And his view prevailed, did it not?
A That is my understanding.
Q And the university then gave that course?
A Yes, it did.
Q With respect to this memorandum did you take an appeal to the faculty—strike that—to the university review committee?
A I didn't take this matter either to the assembly or the faculty review committee because—
Q I didn't ask why.
A No, I did not.
Q The third course you dealt with on your direct examination was—involved Prof. Levy, I believe.
A Yes.
Q What department was Prof. Levy in?
A He's the chairman of the music department.

Q All right.
Now, what course did you and Prof. Levy seek to give jointly?
A It was called structure and literature and music.
Q All right.
When was it first given?
A Either the spring of—I am not sure now—it's [4221] somewhere—I'd say '70, '71, '72, somewhere around there.
Q Could you tell us at the beginning the steps that were taken and what transpired bringing that course into being?
A Well, Prof. Levy approached me and said that he had talked to the dean about giving of an interdisciplinary course and the dean had suggested that he come and see me, and so we then began to talk about syllabus and structure of the course.
And then we went through the same process of going through—
Q The department?
A Well, first we took the syllabus to the dean, and then the department and the division and the curriculum committee.
Q Did you meet with the dean in his office?
A We did.
Q What did you say to the dean and what did he say to you and Prof. Levy?
A Well, again I cannot recall any actual words but I do have the impression again that he encouraged us.
Q He didn't write you a letter of approval, did he?
A Not that I recall.
Q Or a memorandum of approval?
[4222] A I don't recall any.
Q In fact, Prof. Weidhorn, with the exception of experimental courses during the university term, the dean would not have authority to approve a new course, would he?
A I don't know.
It seems that every course that I know about always begins with the dean.

Q You spoke to the dean about the course in music, did you not?
A Yes.
Q He encouraged you, did he not?
A Yes, he did.
Q But he didn't give you approval, did he?
A It seems to me that encouragement is more than approval.
Q That would be for the reader of the record to determine.
Can you produce any memo, letter, document showing approval—
MR. SHECTMAN: That is argumentative.
Q —with respect to any of the three courses that we just discussed?
MR. SHECTMAN: I will object to this question as argumentative.
[4223] HEARING OFFICER: He is requesting documents. I don't see the argument or point involved.
MR. KRAMER: We have none, I must tell you.
MR. SHECTMAN: And the witness has answered that he doesn't recall receiving any writing.
HEARING OFFICER: Let him state he can provide no such documents.
MR. KRAMER: He went to the department, there was a meeting of the department, was there not?
THE WITNESS: Yes.
Q What happened at that meeting?
A Well, I recall that meeting because I thought that some of my colleagues began to redo the course for us but it was approved eventually.
Q Was it discussed in the meeting whether the course would be attractive to students?
A I know that that objection had been raised about some of the courses in the curriculum committee, one faculty member complained about proliferation of courses.
Q Proliferation of courses that had small number of students?
A No.
I mean, you can't tell before hand, whether, you know, what the turn out will be.

[4224] But I don't recall whether that question of whether it would be attractive to students came up in the department.
It may have but I just don't recall.
Q Each course that is proliferated, I don't know that is the right word, but since you have used it describing this faculty member's comments, I will use it here, each course that is proliferated becomes part of either a part-time faculty member's work load, regular work load or a full-time faculty member's overload, or the overload or full time work load of a faculty member in another school working part-time in your school, isn't that correct?
A I don't know.
Some of these courses seem to be the property of the people who originate them and when they are not around because of sabbatical or whatever the course is not given.
So if I understand your question—
Q I think my question is self-explanatory.
Isn't it a fact that with each course proliferated there has to be a faculty member to teach it, it becomes part of his full-time or work—part-time work load or his overload?
A I guess, yes. I don't know what you mean about part- [4225] time work load.
Q Now, you told us about a fourth course.
A Well—
Q Would you tell us what field of endeavor the fourth course was?
A It never got off the planning board.
Q I didn't ask you that.
What field of endeavor—
A You call it a course and it wasn't a course because it was never given.
Q What field of endeavor was it—
A It would be history and literature.
Q It was to be given by you together with someone else?
A Yes.
Q Who was the someone else?
A Robert Goldberg of the history department.

Q When would you have liked to have implemented that course had it been given?

A Well, we never got around to talking about it.

Q You never—

A I stayed—

Q You never got around to talking about it?

A Mr. Goldberg and I did.

Q The two of you talked about it?

[4226] A The dean and I talked about it.

Q When was this, by the way?

A About two years ago, more or less.

Q The dean and you talked about it where?

A In his office.

Q All right.

What did you say to the dean and what did the dean say to you?

A Well, the dean said that Mr. Goldberg is a very intelligent fellow and that I might be interested in giving a course jointly with him along the lines of the interdisciplinary courses I had given with members of other departments.

Q What did you say to the dean?

A I think I said I would look into the matter.

Q How long did this meeting take place?

A Oh, just a few minutes.

Probably part of a meeting on other matters.

Q You don't have a clear recollection of what was said at this meeting, do you?

A Well, I do have the gist of what I just mentioned.

Q What did you do after this very brief conversation with the dean?

A I thought about it and then decided that for two reasons I wasn't going to follow it up.

[4227] Q And you didn't?

A No, I didn't.

Q Did he issue a letter of reprimand?

A No.

Q Did the dean send you a memo directing you to follow it up?

A No.

Q No adverse consequence came to you by virtue of not following it up?

A No.

Q You are not now a department chairman or senior member, are you?

A No, I am not.

Q At no time in your sojourn at Yeshiva College have you been a senior member of a department or a department chairman?

A I have not.

Q You are not a division chairman either?

A I am not.

Q You have been a member of the English Department throughout your sojourn at the school?

A Yes, I have.

Q You told us that the English Department has departmental meetings two to four times a year?

A On the average, yes.

[4228] Q Where are these meetings held?

A In the faculty lounge.

Q Now, I would like you to tell me, focusing on the last three years and this year, which is 1974,-75 school year, and two scholl years prior to that, on the subjects that were dealt with, as best you can recall, in the Enlgish Department meetings—I don't want illustrations, I want you to tell us as many things as you can remember and put aside for purposes of this question new courses, which you already told us that new courses are discussed in the English Department and voted upon at their meetings.

A The selection of students for prizes at commencement.

The policy or implementation of exemption examinations to be given for students who might qualify for exemption from freshman composition.

This one case that I mentioned of a recent graduate who kept on flunking some sort of comprehensive literature test, whether he should be allowed to take it one more time.

And from time to time we have what I would suppose would be called wrap sessions, mainly with reference to

our problem—the problems we confront in trying to each the students how to write in freshman composition.

Q Anything else dealt with in the last three years in [4229] these departmental meetings putting aside new course offerings?

A Oh, yes.

Sometime a question comes up of students taking a course elsewhere, whether because he is a transfer student or he takes a course during the summer session at some other school, whether we are to give him credit for that course.

Q Given credit for that course, the student would not have to take these credit hours reflected in that course?

A Yes.

Another thing we discussed is the question of what students—whether a student would have taken the Clap exam, the college level—I forget, the EPN—if they get a certain mark, whether that would exempt them from having taken more freshman literature and we have had discussions on what kind of mark would be all right or whether the exam itself is of any value.

Some faculty members contend it is not really probing enough.

Q You have told us that in addition to this long list you have given us that the department has a function with respect to establishing new courses, right?

A The depart-ent doesn't establish them. It passes [4230] on them.

Q I said it has a function--

A It has a role to play.

Q In establishing new courses?

A That's correct.

Q And you have described that function?

A Yes.

Q And Dean Bacon has described that function?

A Yes.

Q All right.

Now, should it arive that a member of the department feels that a course should be eliminated, it is not serving

a useful purpose, does the department have a function in that regard?

Would -his simply be mandated by Dean Bacon?

A Well, such a case did arise.

The freshman compsoition used to be required two semester course and a few years ago the second semester was knocked off.

Q What are the facts and circumstances surrounding that?

A Well, I believe it began with the students, which means it probably was brought up first in the senate and then came to the department, the division and the curriculum committee, I suppose.

[4231] And then it was brought up in the full faculty assembly.

Q Did you attend the departmental meetings with respect to the elimination of the second semester?

A Absolutely.

Vehemently I was opposed to it.

Q And voted no?

A And spoke out almost alone against this.

We voted no.

Q And the department voted yes?

A I think it did, yes.

Q There was no consensus here, there was a vote?

A That's right.

That was the case of a vote, yes.

Q And then the division met on this issue, is that right?

A Here my recollection is a little hazy but I suppose it must have.

Q And then finally the curriculum committee and the faculty student senate?

A Well, I think it began in the senate.

It may have ended up there but it did go to the full faculty assembly.

Q And it was approved there?

A That's right.

[4232] Q And the full faculty assembly is a faculty body in which students do not have a right to vote?

A That's right.

Q What was the dean's position with respect to this issue?

A I frankly don't know.

Q Did you attend the faculty assembly meeting at which this issue was discussed?

A Yes, but the dean normally strikes a posture of not intervening—

* * * *

[4234] Q At any time have you as chairman of the welfare committee of Yeshiva College requested from Dean Bacon the budget for his school?

A I have not.

Q At any time have you made—has any faculty member gotten up on the floor of the faculty assembly and [4235] requested the budget for Yeshiva College?

A I don't recall any such incident.

Q At any time has any faculty member gotten up at a faculty assembly and asked to specify line or item number in a budget of Yeshiva College?

I am talking onoly as to the dean.

A I don't recall any such incident.

Q You do recall, however, that the dean said he would not comment on whether the rumor was true or not?

A That's right.

Q Then it is correct to stated, based on your experience that the dean of your college, Dean Bacon, has never refused to discuss any budgetary item or the details of any budgetary item or appropriation, is that correct?

A Well, the dean testified that the budget is not available to the faculty.

MR. KRAMER: I would like to have my question read back and the witness answer it.

A To the best of my knowledge it is correct.

Q He did however refuse to discuss the rumor that we have discussed, is that correct?

A A rumor involving the budget.

* * * *

[4240] Q Can you give us any other time, putting aside the question of whether the deletion from the faculty constitution of the references to the departments and department chairmen, putting that aside, can you give us any other example of a time when a recommendation approved by the faculty assembly was vetoed as you put it by the president of the institution?

We are talking about now the last seven or eight years.

This is the time that the assembly has been in existence.

A Well, about a year and a half ago the faculty addressed a letter to the president, Belkin, on the retirement question and he never even rsponded.

Q Did the faculty assembly pass on a resolution on that question?

A Absolutely.

Q Any other time now in eight years that he has by your testimony vetoed an action of the assembly?

[4241] A Actually there were several resolutions, at least three that I know of on this retirement question, and they—the first two were completely ignored.

Q What happened to the third one?

A The third one just the other day we received a letter from President Belkin in which he says that the faculty's position is baseless.

Q So twice he disagreed.

Any other times?

A No.

The first two times he didn't respond at all.

Q Give us any other examples of his use of veto power in eight years.

A I don't recall at the moment.

Q There were two instances, this question of retirement of a particular faculty member I assume —

A No, on the general retirement question, the interpretation of it.

Q And the question of the enabling document itself, which was the constitution?

A Yes.

Q In eight years?

A Yes.

Q You tell me that there are six to ten faculty meetings a year.

[4242] A On the average, yes.

* * * *

[4245] Q Now, you told us that seven years ago the welfare committees dealt with grievances of faculty members my notes show.

Further, that three faculty members were involved, Prof. Chernowitz, Prof. Siev and Prof. Weidhorn, that's you.

A Yes.

Q Is that right?

A Yes.

Q What was the nature of the grievance that you had?

A I was promoted from assistant to associate professor at the same time that this general salary increase went into effect and as a result I received only the general increment that was given to all associate professors with no bonus for the promotion.

[4246] Q A salary problem?

A That's right.

Q Where did you go with that problem?

A To the welfare committee.

Q What did the welfare committee do with it?

A I brought them a letter—well, first I spoke verbally and the chairman told me to write a letter and for the next two years the matter was more or less hanging in the fire and I was told verbally by the chairman of the welfare committee that Mr. Levine who was then vice prsident for busines affairs had verbally conceded that thre was a grievance here, and it would be corrected, but this is now paraphrasing the remarks of the welfare committee chairman.

He wouldn't put anything in writing.

And then about two or three years later—this is two or three years after I raised the issue, Dean Bacon entered into the picture, called me in to his office and said that he thinks that there is no merit to my charge,

but that he would be willing to get me $300 raise if I would be willing to drop the thing.

And on thinking it over, I decided I would accept that proposal.

But he asked that I write a memo indicating my acceptance of that.

[4247] I indicated in the memo that I understood that $300 bonus to become part of the base pay and to carry over in the following years when the following year came, that $300 had disappeared and when I went to see Dean Bacon he said there must have been a misunderstanding and that was the end of that.

* * * *

REDIRECT EXAMINATION

* * * *

[4256] Q Did the faculty assembly approve by resolution the salary scedule, salary rates that were in effect for the academic year 1971-1972?

A Well, it had approved the original schedule in 1968.

Q And that approval was by faculty resolution, was it not?

A Yes.

Q And that was at a faculty assembly meeting, was it not?

A Absolutely.

Q And the president overrode that resolution and rescinded any paymens and increases in salary for that year, did he not?

A In 1971-72, yes, that's right.

Q On cross-examination you referred to a resolution passed by the faculty concerning matters of retirement and the failure of the president, Belkin, to respond, did you not?

A Exactly.

[4257] MR. SHECTMAN: I offcr to be marekd for identification a leter from Manfred Weidhorn to Samuel Belkin dated March 5, 1975 as Petitioner's Exhibit 112.

(Document referred to marked Petitioner's Exhibit 112 for identification.)

MR. KRAMER: I have no objection to this document.

MR. SHECTMAN: I will offer it into evidence at this time.

HEARING OFFICER: Received.

(Petitioner's Exhibit 112 for identification was received in evidence.)

Q Did you write these letters of March 5, 1975?

A Yes.

MR. SHECTMAN: Let the record reflect that this exhibit comprises two letters written on the same date to Dr. Belkin.

Q Were these letters sent to Dr. Belkin?

A They were.

Q And was this in the capacity—in your capacity as chairman of the Yeshiva College welfare committee?

A Yes, sir.

* * * *

[4267] RALPH BEHRENDS,

having been first duly sworn, was examined and testified as follows:

* * * *

Q Professor Behrends, by whom are you employed?

A Yeshiva University.

Q And where are you employed?

A At the Belfer Graduate School of Science.

Q And in what position?

A Professor of physics.

Q When did you join Yeshiva University?

A September 1, 1961.

Q And by whom were you appointed to the faculty of the university?

[4268] A By president Belkin.

* * * *

Q Professor, are you a tenured member of the faculty?

A Yes, I am.

Q When did you obtain tenure?

A When I started my eighth year according to the [4269] faculty handbook.

Q When was that?

A I guess in 1969 when I started in '69.

Q In what rank were you appointed to the university?

A Assistant professor.

Q And when were you promoted?

A I was promoted in '62 to an associate professor; in '66 to full professor.

Q And by whom did you receive notice of your promotions?

A President Belkin.

MR. SHECTMAN: I offer for identification as Petitioner's Exhibit 115 a letter addressed to Dr. Ralph Behrends from president Samuel Belkin dated August 23, 1966.

(Document referred to marked Petitioner's Exhibit 115 for identification.)

Q I show you Petitioner's Exhibit 115 for identification.

Is this a true and accurate copy of the letter you received notifying you of your promotion?

A Yes, it is.

Q Did you receive any letter from the deal of Belfer notifying you of that promotion?

[4270] A No, I did not.

* * * *

[4272] Q Do you do any work with regard to the preparation or conduct of PHD examination?

A Yes.

We have to give PHD qualifying exams twice a year. Those exams have to be prepared.

I am usually involved in that to a greater or lesser extend depending on which year it happens to be.

We—after the students take the written exam we have to give them oral exams.

I am usually on oral committees.

From time to time I am also on thesis committes.

In the past of course I have had thesis students, too.

Q Now, you referred to some work you do at the Lenox Hill Hospital.

Is that outside employment as distinct from your employment at the university?

A Yes.

It is a—it is outside employment.

Q And were you required to obtain permission for that employment?

[4273] A Yes.

Since I a ma full-time faculty member I am required by the faculty handbook to request such permission from the president of the university.

Q And did you request such permission?

A Yes, I did.

Q Did you describe—could you describe the course by which you sought permission?

A Yes, I did.

Q Did you describe—could you describe the course by which you sought permission?

A I received notification I guess from Dr. Fishman, forwarded by Dean Comar, suggesting that we—if we had outside employment that we should request permission to carry out such outside employment.

So I wrote a letter and asked that Dean Comar who I should address it to.

He said to address it to him, so I did, and he forwarded it and I received the authorization from Dr. Fishman.

Out of curiosity I asked Dean Comar if this was sufficient—

MR. KRAMER: I have to object at this point.

The correspondence ends with the receipt of the authorization and the remaining material is unresponsive to the question.

HEARING OFFICER: I will sustain the objection.

Q Did you find out whether the authorization you [4274] obtained from Dr. Fishman is sufficient to meet the requirements of permission from the president?

A Dean Comar assured me.

MR. SHECTMAN: I offer to be marked for identification as Petitioner's 116 a letter to Professor Ralph Behrends dated September 5, 1974 from Joshua A. Fishman, vice president for Academic Affairs.

(Document referred to marked Petitioner's Exhibit 116 for identification.)

Q Professor, I show you Petitioner's Exhibit 116 for identification.

Is this the approval or authorization you received from Dr. Fishman?

A Yes, it is.

* * * *

[4275] Q Professor, what committees of the Belfer School and the university do you presently participate on?

A Well, at Belfer as a full-time faculty member I am a member of the faculty council.

I am an elected member of the faculty committee.

I am the chairman of the faculty welfare committee and in the past I was a member of the academic credentials committee.

Q On a university-wide basis are you on any university committees?

A Yes.

I am the elected representative to the council of graduate schools, to the adademic planning and priorities committee or the resource allocation committee, and on the committee planning for a senate.

Q Are you on or have you served on the BA/MA committee of physics?

A Yes.

I still am on that.

Q You indicated that as a full-time member of the faculty you were on the faculty council.

Who else comprises the membership of that council?

A Well, the president of the university, the dean [4276] of the Belfer School, the associate dean of the school and all full-time professors, associate professors and assistant professors excluding adjunct and visiting staff.

Q How often does the faculty council meet?

A There are two statutory meetings in May and October.

Q And in the last two or three academic years how many times has it met each year?

A Except for last spring it's been meeting twice a year.

Q And have you attended all of those meetings?

A I would say the vast majority of them. I may have missed one.

Q Who presides at those meetings?

A Dean Comar, ex officio.

Q And could you describe matters of consideration that have come before the committee, that are typical of those that come before it?

A Before the faculty committee?

Q Yes.

A The faculty council?

Q Yes.

A Well, the faculty council represents the faculty and is advisory to the dean and the president and so in fact any [4277] matter—

MR. KRAMER: Mr. Hearing Officer—

A —can come before it.

MR. KRAMER: —I ask that the witness be responsive to the question.

The question dealt with matters that came before—typical matters, not whether council was advisory, which is conclusory.

That's in the record and will be cited in the briefs.

I would ask you to caution the witness to be responsive, not to editoralize.

HEARING OFFICER: Would you take into account counsel's—

THE WITNESS: Yes.

HEARING OFFICER: —remarks?

THE WITNESS: Yes, I will.

Q Could you tell us more specifically some of the recent issues which the faculty council has considered?

A Well, one thing I recall is the administration had intended to move the library from the Belfer building over into the main library building on the main campus.

That came before the council and a resolution was passed by the council posing this and the posing—ignoring [4280] of the library committee of the Belfer School, and trying to reach a decision.

* * * *

Q You testified that you were on the faculty committee, is that right?

A Yes.

Q Who makes up that committee?

A Well, again, the president of the university, the dean of the Belfer school, the chairman of each of the departments, one elected representative from each of the departments, one elected representative from math, physics and chemistry elected by the faculty [4281] council.

Q How often does this committee meet?

A Well, it usually meets just before the faculty council meeting and in addition it may meet on other occasions and has, in fact.

Q What is the purpose of it meeting just before faculty council meetings?

A It is advisory to the faculty council and hence presents sort of—sort of filters and puts into form the ideas that should be presented to the faculty council.

Q Did the faculty committee at—did it meet this past fall?

A Yes, it did.

Q And what were the subjects raised at that faculty meeting?

A Well, there was a question that I mentioned before about the library committee.

* * * *

[4285] Q When was the faculty committee meeting scheduled this fall?

A I couldn't give you the date.

Sometime in October.

Q I show you the minutes of the faculty committee meeting dated October 31, 1974.

Does that refresh your recollection?

A Yes.

* * * *

Q Can you tell us now when this meeting was held?
A When it was held?
Q Yes.
A October 31, 1974.
Q Can you tell us when it was scheduled, a week before, two weeks before?
A It must have been at least ten days before.
Q And were the matters raised at that meeting concerning [4286] transactions which occurred prior to October 30th?
A Yes.
Q Could you tell us about the issues that arose at that meeting?
A Well, the—one of the important issues was the change in the status of the math, science education department, and that had been going on quite some time. There had been rumors about it.

And math, science education department was rather upset over having not been informed by the dean of what was transpiring in terms of the moving the math, science education department to the C and I curriculum and instruction department at Ferkauf and they wanted to be apprised what the situation was and felt they were being ignored.
Q Would that move of the department have required a change in the cite of employment of faculty?
A Well, that was the question, whether they were going to be physically moved down there or whether they —it was just a paper shift of their affiliation.
Q What do you mean down there?
A Ferkauf is located at Fifth Avenue.
Q That's near 13th Street?
A Yes.
Q What street is the Belfer School located on?
[4287] A 185th Street, so they wanted, you know, this was one of the questions that came up.
Q What other questions came up?
A Well, you mean in terms of the math, science education?
Q No, what other—

A Oh, another question that came up was that the library committee had learned that the administration, Sokal, Fishman, Deitsch, and I think it was Deitsch, I am not sure, maybe Turbo, and president Belkin, had decided to move the Belfer library to the main library, and—
Q Had the faculty been consulted?
A No, the library committee had not been consulted an dno one at the Belfer School had been consulted and everyone was quite upset, again, by being ignored by the administration.
Q What other matters were raised?
A There was a report on the use of the computer and then there was a memo from the chemistry department and the chemistry department has—having lost its accreditation for giving PHD program in chemistry, and that the administration had been claiming that the loss had occurred because this department was too small or because it didn't include the undergraduate [4288] chemistry department in one massive university-wide chemistry department.

They felt that they wanted to bring to the attention of the committee the fact that the loss—they lost their accreditation for a lot of other reasons and these reasons were that there was not sufficient administrative support for the department, either in student support, in expendable supply support, in glass blowers and machine shop or in having a sufficient number of faculty members to cover all the fields that were necessary.

And that these were the main reasons they had lost their accreditation.
Q And had these been raised before, these protests over the conditions of the chemistry program, to the administration?
A Yes.

These protests had been made by the chemistry department over a period of four, five years.

In the annual reports that the chemistry chairman fills out, as all other chairmen of the departments there, there had been complaints about the fact that the sup-

port the chemistry department was receiving from the university was not adequate and the department was losing its viability.

[4289] Q And has the department in fact lost its accreditation?

A Yes, it has.

Q And that is for the PHD program?

A That's right.

Q What other matters were raised at that meeting?

A Well, the question also came up about the fact that the statutory meeting of the faculty council and the faculty committee in the previous spring had been called.

Q Who calls those meetings?

A The dean, and there was also objection over the fact that the academic credentials committee is supposed to review all new appointments and Professors Beck and Pollack were appointed in September of '74 and their names had not gone to the academic credentials committee from the dean.

Q Who appointed them?

A Pollack was appointed by the president of the university and Beck was hired by—I don't know who, possibly the chairman of the department or possibly Professor Rocca.

Q Was he hired under a grant?

A Yes.

[4290] Q And—

MR. KRAMER: Could I hear the names on that last one?

I can't get notes fast enough this morning.

(Record read.)

Q Was anything else raised at that meeting which you held?

A Well, it was the—the question was raised of whether all of these were not examples of the failure of the administration to consult with the faculty on—on matters of importance to the faculty.

Q And were these—were these matters subsequently introduced before the faculty council?

A Those that we had been able to resolve in time for the meeting, which was supposed to occur at four

o'clock and we were ten minutes late and we were not able to finish all the items of business before us, so we were not able to introduce all of the faculty council.

Q Do faculty at the Belfer School use the library?

A Yes, they do.

Q Where is that library currently located?

A It's on the fifth floor of the Belfer building.

Q So is it within a few floors of most faculty offices?

A Yes, it is.

[4291] Q And if it were moved, where would it be moved?

A It would be moved over to the main library which is—not too far, maybe a block and a half.

Q In another building?

A Yes.

Q And would the collection at the Belfer library be merged with the collection of the university?

A Well, that wasn't clear, whether it would be merged or put into a separate section.

Q Do faculty at the Belfer School use the computer?

A Yes.

The academic computer.

Q For what purpose?

A For research, also in terms of the computer course that is given to the students.

The students also use it.

Q Has the loss of accreditation of the chemistry department affected the members of the department?

A Well, they are no longer in a PHD granting department?

This has a certain loss in presige, and loss in standing in the academic community in general, as well as in the field of chemistry.

It is—whether one likes it or not, people take it as a reflection upon the chemists who are in the [4292] department.

* * * *

[4296] Q You testified that you are in the university committee to study the formation of the faculty senate?

A Yes.

Q What was that committee formed?
A Sometime in the fall of last year.
Q And does there exist a faculty senate at this time?
A No, there does not.
Q How were you designated as a member of that committee?
[4297] A I was elected by the faculty council.
Q Was anyone else from the Belfer faculty elected to serve on that committee?
A Yes, Dr. Patt.
Q And what faculty from Belfer currently represent the Belfer School on that committee?
A I do and Dr. Matis.
Q What happened to Professor Patt?
A Dean Comar decided that he didn't want Dr. Patt to represent the Belfer School at the committee plan senate so appointed Dr. Matis instead.
Q When was the election held for the representatives?
A It was held—I believe at the faculty council meeting—prior to this—to the October 31st, I am not sure, but it was sometime—it was before the committee to plan senate had been formed.
Q Was this fall or spring?
A It was last fall. It was sometime in October or possibly late September.
I am not sure.
Q Who received the most votes?
A I received the most.
Q Who received the second most?
A Dr. Patt.

• • • •

[4298] Q Were there other people on that ballot?
A Yes.
Q You and Professor Patt received the most votes?
A Yes.
Q It had been agreed that the persons receiving the highest votes would be appointed to the committee?
A Yes.
Q And who had—who had agreed to such a procedure?

A The dean and the entire faculty council.
Q At a duly-held faculty council meeting?
A Yes, at that meeting.
[4299] Q And did the dean at that meeting indicate that he would not accept—
A No, he did not.
Q And how did it come about that the dean replaced Prof. Patt?
A After the meeting the dean objected.
Q To whom?
A He brought it up to several faculty members and finally I got the word of it and I went and talked with the dean.
Q What did he tell you?
A He said he objected to Dr. Patt being on the committee, and I tried to make a compromise of the situation but I was unable to.
Q Did—at the faculty council meeting at which the election was held, how many members of the administration were there?
A At the faculty—
Q Faculty council meeting where the election of you and Prof. Patt was conducted, at that meeting, how many members of the university or Belfer administration were present?
A Only Dean Comar is the only administrator of the school.
Q Did Dean Comar vote?
[4300] A I am not sure.
It was by secret ballot.
I would guess he wouldn't since he was chairing the meeting.
Q And everyone else voted?
A Yes.
Q And who announced the results of the vote?
A Dean Komar.
Q How many times has that committee to study formation of faculty senate met?
A Well, it was meeting on an average of once a month for approximately two hours but the last two

meetings it has met for four hour periods once a month.

Q And who serves on that committee with you?

A Well, the other representatives of other schools plus Dr. Fishman, Dr. Sokal and Dr. Miller who is the vice president for student affairs.

And then—

Q That is not Professor Martin Miller from the Ferkauf School?

A No, this is Israel Miller and then also Rabbi Harloff is there—he's the director of Yeshiva program but I believe he is acting in the capacity as representative from the Yeshiva program but it's not clear in my mind.

[4301] Q And has that committee to date established any governing documents for a faculty senate body?

A No, it has not.

Q Have any such documents been proposed?

A No.

Everything is still in a very discussionary stage.

Q When did this—when was this committee first established?

A It must have been in October or November, possibly November.

Q That was prior to the filing of the petition herein—that was subsequent to the filing of the petition?

A Yes, I—it may have been.

I am not really sure.

Q Has that committee considered the representation of faculty on the board of trustees?

A Yes, it has.

A suggestion was made that we have senate representation on the board of trustees.

Q And what occurred when that recommendation was made?

A Well, the faculty members of the committee in general were in favor of it.

On the other hand, Dr. Sokal and Dr. Fishman—Dr. Fishman was sort of reluctant.

[4302] Dr. Sokal seemed outright opposed to the idea.

Q And what is the status of that proposal now?

A Well, since nothing has been brought to a vote or finalized, it is still in limbo.

We have to finally vote on all of these questions and put them down in a hard form.

* * * *

[4303] Q Who first proposed or convened this committee?

A Dr. Fishman.

Q And in what form?

A He called a meeting, notiried each of the designated representatives of the various schools to a meeting.

Q Does the committee have any formal by-laws?

A No.

Q Does the committee have any formal governing documents?

A No.

Q Does the committee have officers?

A No.

Q Has anyone—has Dr. Fishman explained the authority of the committee to its membership?

A Only insofar as he said that the—that president Belkin has been in favor of the formation of the senate and that we should see what—what kind of a thing the senate should be if we would form one, whether we were in favor of forming it and if we were in favor of forming it, what form it should take, who shoulkd be on it, what its powers should be, who it should represent, everything was left as an open question.

Q All right.

Are there presently any faculty members on the [4304] board of trustees?

A No.

Q Are there any students on the board of trustees of the university?

A No, there is not currently.

Q You testified also that you were a member of the council of graduate schools.

A Yes.

Q Who makes up the membership of that council?

A Well, there are six graduate schools.

There are two faculty representatives from each graduate school, two students from each graduate school and

then a total—tha totals up to 12 faculty members, 12 students and there are 18 administrators.

Q What is the role of that—

MR. KRAMER: Mr. Hearing Officer, once again if counsel has underlying by-laws and documentation as I understand it does, that would be the evidence of what its statutory purpose would be.

Beyond that the questionis conclusory; if the witness was asked wht is being done, that's another matter, what transpired at the meeting.

From that the reader of the record can adduce what the purpose of the committee is.

Q Professor, can you tell us some of the redent [4305] matters that have been considered by the council of graduate school?

A Yes.

One was the question of the chemistry PHD program.

The chairman of the chemistry department was invited to the meeting to discuss the loss of accreditation, and present—he presented a point of view that the council of graduate schools should go on tecord as being in favor of the reinstituting of PHD program in chemistry.

Q Was a vote taken on that issue?

A Yes.

A vote was taken and it was passed that there should be—that the council of graduate schools should go on record as being in favor of reinstituting a PHD program in chemistry.

Q Can you describe the vote?

A Yes.

The vote was for the resolution, with all the faculty and students.

Q And against the resolution?

A Plus Dean Komar of the Belfer School.

Opposed to it were Dr. Skoal, I believe Dr. Miller. I am not sure—

Q Would it be fair to summarize and say—

A Dr. Green—I will take it back.

[4306] There was someone sitting next to Dr. Sokal and I can't remember who but Dr. Green from Wurtz-

weiler voted for it, maybe Dr. Miller was on my left and abstained.

Q Besides Dean Komar did any other member of the university administration vote for that resolution?

A No.

* * * *

[4307] HEARING OFFICER: What point are you trying to make, Mr. Shectman?

MR. SHECTMAN: The alignment of faculty and administration, the fact that it has been considered repeatedly in the university cases as to the definition and status of department chairmen and others that has been placed in issue by universities, accordingly the affairs on these committees and the actions taken we believe are reflective of and are relevant and material considerations before the board.

* * * *

[4309] Q Professor, was any specific action taken as a result of that resolution that you know of?

A No.

* * * *

Q You testified that you were also a member of the faculty welfare committee.

Is that a committee at the Belfer School?

A Yes, it is.

Q Is that a standing committee at the Belfer School?

A Yes, it is.

Q What are its statutory powers?

A To discuss the questions of wages and fringe benefits and tenure with the administration and other matters I quess of working conditions.

Q When were members of the Belfer faculty designated as members of the welfare committee?

[4310] A In the October 1972 meeting of the faculty council, the faculty welfare committee was formed.

Q And subsequent to that was there an election of specific members of the faculty to the welfare committee?

A Yes.

At first it was that the faculty committee is—as a whole would act as a faculty welfare committee and then later I believe in '73, it was decided to change

and make the faculty welfare committee just—at a faculty council meeting, to change it to just five or six members.

Q And who was elected at that meeting?

A I was elected, Dr. Patt was elected, Dr. Matis was elected, Dr. Coburn and Dr. Berger, I guess Dr. Berger for six months and then Dr. Coburn was coming back and he would then take the place of Dr. Berger.

Q Dr. Spindel?

A Dr. Spindel, yes.

Q And those persons were elected by the—

A Faculty council.

Q Comprising—

A The welfare committee.

Q But they were elected by the entire faculty?

A By the entire faculty council, yes.

The entire faculty.

[4311] Q Did the dean of the school take part in that election?

A Well, he was chairing the meeting so I guess he didn't vote.

I am not sure if he votes or not—or doesn't vote. I doubt that he votes.

Q Are any of those persons you listed chairmen of departments?

A Dr. Coburn is chairman of the mathematics department.

Q And does Dean—excuse me, does—

A Incidentally—

Q Deos Prof. Patt have an assignment other than as a faculty member?

A Yes.

He is the assistant dean.

Q And he was elected by the faculty too?

A Yes.

Q Are any of those persons you listed on the welfare committee principal investors?

A Yes, they are.

Dr. Patt—Dr. Matis is a principal investor, I believe at the time Dr. Spindel was, Dr. Coburn and Dr. Berger, except—Dr. Berger and Dr. Coburn may be co-principal investors.

[4312] Q What activities did the faculty welfare committee undertake in the academic year 1972-1973?

A We tried to formulate a package of salary increments to present to the administration for the salary increases for faculty of the Belfer School and we came up with a—finally with a package which was a ten percent across the board increases, plus some percentage unspecified of the total salary budget to be used for promotional increases for inequities that had occurred over the years, and for matching offers from others.

Q All right.

MR. KRAMER: Mr. Hearing Officer, I would move to strike this line of testimony on the same basis that I have objected repeatedly in the past when testimony was offered about the welfare committees of other schools in terms of the detailed dealings between those committees and the administration.

If you recall we had Prof. Weidhorn on the stand yesterday and he testified as to the composition of the committee.

I did not object, just as I did not object today, to the election of the committee.

There was no dispute that such a committee exists and there is no dispute that the faculty of the Belfer School does not have control, ultimate control [4313] over how much they will be paid.

That is a university decision in the hands of the vice president of finance, the president of the university and the board of trustees, the same would go for the major fringe benefits such as the pension plan, Blue Cross, Blue S-ield program, to the extent it may exist.

Those major items, most certainly are in the—the ultimate decision-making rests with the persons I have named, not in the welfare committee of the faculty.

The university has at no time stated that the welfare committee of the faculty or the faculty of the Belfer School have the decision-making authority over how much they will be paid and what major fringe benefits they will or will not receive any more than any other em-

ployees just about of any other major employer in the country have control.

Whether they are supervisor or managerial employees or just employees within the meaning of the Act, it is a course affected by many other considerations.

I object to counsel pursuing as he did yesterday and he will do now for an hour or hour and a half, a course of dealings to the extent the course of dealings may exist here, apparently a shorter course of [4314] dealings and probably a less significant course of dealings even when viewed from the prospects of the petitioner.

But nevertheless an hour and an hour and a half will be spent in going through these courses of dealings.

I object to that.

I move to strike this line of testimony.

MR. SHECTMAN: First of all I believe we can limit this to a very short time.

I would hope it would be a matter anywhere between five and ten minutes.

If, of course, counsel will refrain from redundant objections, which have been the case every time the welfare committee has been brought up.

* * * *

[4316] HEARING OFFICER: Yesterday I allowed the testimony to go into the record and today I will allow it to go into the record.

MR. KRAMER: I will appeal the ruling to the regionarl director.

* * * *

[4318] HEARING OFFICER: Board Exhibit 3, as it is clear from the appeal my ruling has been reversed and counsel for the petitioner will be precluded from going into the dealings between the committee and the university.

* * * *

[4319] Q Professor Behrends, did the proposals of the faculty welfare committee to the university include proposals to increase the salaries of department chairmen?

A Yes.

Q To increase the salaries of principal investors?

A Yes.

Q And to increase the salaries of part-time faculty?

A No.

Q To increase the salaries of anyone—any employees under a grant other than the principal investor?

A No.

Q In the academic year 1972-1973 without describing the proposal, did the faculty welfare comittee make a proposal to the university?

MR. KRAMER: I must object on the grounds that it pertains to a course of dealings between the university and the faculty welfare committee, the very subject the regional director dealt with.

I did not obje- ton the question of whether the welfare committee made proposals on behalf of part-timers, in light of the comments that were made yesterday by [4320] counsel and counsel made during the argument of the appeal, but I do object here.

I think it is within the resional director's ruling.

HEARING OFFICER The objection would appear to be germane and therefore it will be sustained.

Q Professor Behrends, I show you Petitioner's Exhibit 17 annexed to Board Exhibit 2 herein, a letter addressed to president Samuel Belkin, dated September 26, 1973 from yourself and Professor Martin Miller.

Did you send this letter to President Belkin (handing)?

A Yes, I did.

Q Did you receive a response to that letter?

A Yes.

MR. KRAMER: Could I see what was just shown to the witness?

HEARING OFFICER: Yes.

Q From whom did you receive a response?

A Dean Komar.

MR. SHECTMAN: I offer for identification a letter from Dean Arthur Komar to Dr. Ralph Behrends dated October 23, 1973.

(Document referred to marked Petitioner's Exhibit 118 for identification.)

[4321] Q Professor Behrends, I show you Petitioner's Exhibit 118 for identification.

Is that a true and accurate copy of the letter you received from Dean Komar in response to the September 26th letter to the—to President Belkin?

A Yes, it is.

* * * *

Q Professor, to what department do you belong?

A Physics.

Q Are there regular department meetings?

A Yes.

Q And how often are they?

[4322] A Once every two or three weeks on the average, I believe.

Q Who generally attends those meetings?

A All the members of the physics department.

* * * *

[4334] Q (By Mr. Shectman) Professor Behrends, how were the course schedules for the Physics Department determined this year?

A Well, we have a meeting, a departmental meeting and the courses are listed up on the blackboard that have [4335] to be taught for the year.

The faculty members make their choices as to which courses they would like to teach for the year.

Then the times have to be set as to when the courses will be offered in order to avoid any conflict.

For instance, there are four or five first year courses in the Graduate School at which a normal entering student would take and those courses can't be scheduled at the same time so there would be a conflict.

So we arrange it so that the timing is proper for those courses.

Then, as student adviser I take the name of the course, who is teaching it and the hours to be given, to Charley Patt.

* * * *

[4336] Q (By Mr. Shectman) Professor Behrends, does anyone present at the department meetings assign the courses which are to be taught?

A No.

Q How are questions of conflicts over who will teach what course resolved?

A Between two people who want to teach the same course.

Then they sort of argued it out amongst themselves, the two who want to teach the same course.

It often happens, you know—not often, but out of schedule of the courses there may turn out to be one course that two people want to teach and one course that nobody [4337] cares to teach and finally, just in the act of being cooperative one will choose to take a course that he didn't really specifically want and the other one would take it with sort of the understanding the next time around the choices will be made differently.

Q Has Charles Patt or the Office of the Assistant Dean ever assigned the course schedules for the Physics Department?

A No.

Q What course are you teaching at the Belfer School this year?

A Electricity and magnetism.

Q Did you receive any assignment as to where that course would be taught?

A Yes, I did.

Q Do you recall what that assignment was?

A It was on the second floor.

At this time I'm not sure which room number it was.

Q Where is that course currently being taught?

A In my office on the seventh floor.

Q Do you have personal knowledge as to whether any other members of the faculty teach courses in their offices?

A Yes.

Q Are those locations or sites for the teaching of courses assigned to them?

[4338] A If they have made the express request to have their courses taught in their offices they will have their offices assigned.

If they don't make any request specifically, and I'm the one that has to take all of this data to Charley Patt,

then they are automatically assigned by Charley Patt in some room to teach in.

I don't recall having taken down any specific requests for teaching in their specific offices, yet I know that some of them do.

For instance, Dr. Lebowitz.

Q When Dean Komar was President of Belfer School who called faculty meetings?

A Which faculty meetings?

Q Faculty council meetings?

A Dean Komar calls the faculty council meetings.

Q Who chairs the faculty council meetings?

A Dean Komar.

Q Who chairs those meetings?

A Dean Komar.

* * * *

[4341] Q (By Mr. Shectman) Professor Behrends, what department are you in?

A Physics Department.

Q Who is the Chairman of that Department?

A Dr. Lebowitz.

Q How was Dr. Lebowitz chosen?

A He is elected by the department every three years.

Q Are there regular department meetings, Physics Department meetings?

A Yes, there are.

Q How often?

A They probably average about every two or three weeks.

Q Can you tell us the subject matters of those meetings?

A Well, as I described before there is a decision [4342] of what courses to be taught.

There are questions about the students.

For instance, when we get to the time of year which occurs twice a year when we have to have the Ph. D. qualifying and the Master's test, we have to get someone to make up the tests, the written tests and then in fact we just recently—we are now looking over the tests before they are given, as a faculty, in the department, not

just having him give—make up the tests and give them himself.

Afterwards, after the test has been given the students have to take oral qualifying exams and so then we have to choose the various committees that will sit, usually three faculty members on each committee to examine the students.

We have to decide on the basis of the grades they got on the test, written part of the test whether we feel—on the written part and on the oral part whether we feel that they have passed as far as a Master's Degree is concerned and/or whether they passed as far as a Ph. D. qualifying exam is concerned.

We spent a good deal of time discussing the question of the State, of the Evaluation Committee coming down to examine our Ph. D. program in Physics, and in terms of what should be said in the report and how we—what stance [4343] we should take relative to the three investigators—the two investigators who came down to examine our department.

We generally have to decide on who will be—who will get to be the teaching assistants.

We have to decide on who—if the grades arent's being kept up or is not performing, whether he should be continued on at the University.

Then, on occasion, if there is the opportunity, if the administration says that we have the opportunity to having another faculty member, then we discuss the possibilities and which section of the Physics Department should get a new member, whose turn it is in a sense, or if we lost somebody, there should be a replacement for that person lost.

The qualifications—somebody becomes an advocate or a group of people become an advocate for certain faculty member to be brought to our school and he will be discussed, and the question will come up about when he should come and give us a seminar so that the whole faculty can see him.

We also have to discuss who will be at the various colloguia and seminars which are held each week.

We have to have outside speakers and usually somebody has to take the responsibility of doing that.

[4344] Often that person wil lask if there are any suggestions as to people who are doing something interesting in one of the fields, and whether he should be asked to come and give a lecture.

Q Does the department chairmen attend these meetings?

A Yes.

Q How is action taken by the department on any of those questions or issues to which you have referred?

A It runs very informally and generally a consensus is arrived at.

At times there may be a vote, but the vote will be unanimous.

I can only recall one instance, I think, where there was a vote which was not unanimous.

The vote was lopsided, and that was for the election of our representative to the Faculty Committee.

Q Who was that representative?

A Dr. Cooper, but he has left now.

Q And by reason of that election was he or did he in fact serve as representative for that committee?

A Yes.

Q And the department chairmen does not appoint a representative to that committee?

A No.

Q You indicated that the department may consider [4345] certain issues as to the appointment of new faculty.

Did the department make any recommendations last year and, if so, to whom for the hiring of new faculty?

A Yes, we thought we suddenly had the possibility of making up to three appointments and I believe Dean Komar told us that this possibility existed so we decided that we would get one person possibly in microscopic physics and the name suggested by that group was Dr. Pollack.

Then the elementary particles group wanted a senior and a junior appointment because Dr. Landovitz, who was

a member of the Physics Department left and we felt we would get a replacement for him.

Dr. Cooper was leaving and we felt we would have a replacement for him too.

So we made two suggestions, some that were—

Q To whom did you make those suggestions?

A To the department, came to a consensus that we would make these suggested faculty replacements and so when it was voted on and accepted by the department, then Dr. Lebowitz took it, who was the chairman, took it to the Dean and they went to the higher parts of the administration.

In a stipulation that we put there was that we were supposed to be informed that the University was not going to appoint all three, to let us know how many they [4346] would appoint, and we would make the choice as to which one would be the one that we would like to have appointed, and—

Q On what basis—

MR. KRAMER: I don't think the witness has finished his answer.

The last word he said was "and".

A (Continuing) And then what happened is they came back and told us that Fred Pollack was the one that was hired and that caused a little bit of a storm that we were bypassed and not given the opportunity of making the choice.

Q By whom was Mr. Pollack appointed?

A The president of the University.

Q On what basis or what considerations were discussed at the department meeting in choosing who and what areas of the department in fact they were needed for?

A Well, as I pointed out in elementary particles we were losing two people and to keep elementary particles physics as a viable section of the Physcis Department we felt that we would have to have two other people to replace these.

Otherwise it starts getting down to the point where you have one person in a field and that is just not a viable department, in that viable group in the depart-

ment, [4347] because it is very important first to be able to talk to your colleagues and discuss your research and their research and ideas are created in this manner.

How you decide on who it is going to be is the specialists in the field look around and find out who they feel have the best professional qualifications.

Q Is it then your testimony that the department recommended the hiring of three persons?

A Yes.

Q With certain stipulations?

A Yes.

Q And were those stipulations complied with by the administration?

A No, they were not.

They did not come back to us and tell us there was only one appointment to be made, they made the choice.

Q Does the Physics Department consider issues as to the promotion of faculty members within that department?

A Yes, we do.

Q Can you describe that, please?

A Well, the professors senior to the person being considered for a promotion meet and discuss the person's progress, his publications, his professional standing and if these measure up to the standards that we are [4348] trying to keep at the Belfer School or increase at the Belfer School, then this group will come to the conclusion he should be promoted and so recommended to the Administration and the Chairman of the Department would then take it to the Dean and then it will go up I guess to Vice President Fishman and then to the president.

Q Have all such recommendations been granted and acted upon favorably by the University?

A No, they haven't.

In fact, there was a freeze on promotions that started back in 1971 and it wasn't until last September or October that the senior faculty at the Belfer School met with President Belkin and he finally agreed to allow five or six promotions at the school which had been held up for quite a period of time to finally go through.

Q When was that meeting with President Belkin?

A In September or October of last year, '74.

* * * *

[4349] Q (By Mr. Shectman) Has a promotion ever been granted within the Physics Department that the department meeting did not consider?

A Not to my knowledge.

* * * *

CROSS EXAMINATION

[4362] Q (By Mr. Kramer) Dr. Behrends, are you a member of the Library Committee of the Belfer School?

A No.

Q Were you ever a member of the Library Committee of the Belfer School?

A No, I was not.

Q Did you attend meetings of the Library Committee?

A No, I did not.

Q Have you had opportunity to discuss the purported transfer of the library from the Belfer Building to some other building with Vice President Fishman?

A No.

Q With Vice President Sokol?

A No.

Q With President Belkin?

A No.

Q With the head librarian of the University?

A No.

Q You yourself have had no personal dealings directly with any member of the University administration in [4363] connection with the purported transfer of the library from the Belfer School to elsewhere?

A With Dear Komar.

Q Other than with Dean Komar?

A No.

Q Has the library in fact been transferred from the Belfer School, Fifth Floor to anywhere else?

A No.

Q Now, have you ever been a member of the Math and Science Education Department?

A No.

Q Did you attend meetings of the Math and Science Education Department?
A No.
Q Have you conferred with Vice President Fishman, Vice President Sokol or President Belkin concerning the transfer of the Math and Science Education Department from the Belfer School to the Ferkauf School?
A No, I have not.
Q You have had no personal dealings in that area with any of those individuals?
A That is correct.
Q And that would be outside of course of your normal area of activities and you are a physics professor I take it?
[4364] A Yes.
Q You do not get involved personally in the affairs of the Math and Science Education Department?
A Except insofar as it goes to the Faculty Committee.
Q Except insofar as you may hear about it in the Faculty Committee?
A Yes, and with the individuals involved, of course.
Q But your knowledge in this area is second hand from other people telling you things?
A Yes.
Q Telling you things outside the course of your normal teaching duties?
A Well, I'm also the Welfare Chairman and I also am a member of the Faculty Committee and some questions do come up to me that they are disturbed about.
Q You are also an Officer of the Petitioner?
A Yes.
Q And the faculty members of the School know you are an Officer of the Petitioner?
A Yes, that's correct.
Q And things come to you in that way too, don't they?
A Yes.
Q People tell you about them?
A Yes.

Q And what you have told us here about the movement [4365] of the Math and Science Education Department from the Belfer School to the Ferkauf School is based on things people have told you about it?
A Yes.
Q Not in firsthand dealings you have had with the administration?
A That is correct.
Q And the same thing would hold true with respect to the Library?
A Yes.

* * * *

Q Would it be fair to state that the Chairman of the Library Committee is opposed to the movement of the library from Belfer to somewhere else?
[4366] A That I had the impression.
Q The Library has not been moved?
A That's right.

* * * *

[4370] Q At any time during the course of that discussion, Professor Behrends, did Dean Komar tell you in words or in substance that he would prefer if Dr. Patt did not serve on the Senate Committee because, in his view, meaning Dean Komar's view, Dr. Patt was an administrator?
A That may have been one of the reasons.
MR. KRAMER: I would like to have my question read back.

(The last question read by the Reporter.)

MR. KRAMER: I think that question lends itself to a yes or no.
A Yes.
Q By the way, Dr. Behrends, how many representatives does the Belfer School have on the Faculty Senate Committee at any one time?
A One official representative.
Q One, not two?
A There is an alternate.
[4371] Q One representative?
A Right.

Q And not two?
A Right.
Q Who has replaced Dr. Patt?
A Dr. Mattis.

* * * *

[4372] Q Dr. Mattis is the alternate, is he not?
A That is correct.

* * * *

[4383] Q You told us in your direct examination this last September or October there was a senior faculty meeting with President Belkin?
A Yes.
Q It was your testimony that at that meeting he agreed to allow five or six promotions at the School?
A Yes.
Q Did you attend that meeting?
A Yes.
Q Was this attended by the entire faculty?
A No.
Q Who attended that meeting?
A It was the faculty committee and certain senior faculty members.
I don't know how the decision on that was reached.
Q Those promotions had been recommended by the senior faculty of the Belfer School prior years?
A By the Department, yes.
Q Not by the Senior Faculty?
A Well the Senior Faculty in the Department.

* * * *

[4384] Q (By Mr. Kramer) Professor Behrends, at Page 4289 of the record at Lines 20 through 22 you testified:

"Pollack was appointed by the President of the University and Beck was hired by—I don't know who, possibly the Chairman of the Department or possibly Professor Roccah," and it went on.
"Was he hired under a grant?"
You answered yes.
I then asked that the question be read back and in your presence and we continued the line of examination.

This morning you testified that both Beck and Pollack were hired by the President of the Institution.
On what basis did you change four testimony, Professor Behrends?
A As I explained this morning I was saying Beck but [4385] I was thinking of Bell and Beck couldn't have been on Roccah's grant because Beck is in the Chemistry Department.
Q Was Bell hired by Roccah?
A On Roccah's grant, yes.
Q And Beck was hired in the normal course that faculty members are hired at your School?
A Yes, in the Chemistry Department.
Q He was interviewed by the Department?
A I would imagine so, I don't know.
Q Were you there?
A No, I'm not a chemist.
I'm not a member of the Chemistry Department.
Q So you are not familiar with how Beck was hired other than the fact that in the normal course the president would send him a letter of appointment?
A Yes.
Q Your testimony is not that the president hired Beck but that Beck was appointed by the president?
A Yes.
Q That would also be so with respect to Pollack?
A Yes.
Q By appointment you mean the letter of appointment came from the president?
A And signed by him, yes.
[4386] Q Is it a fact that Professor Beck was hired by the University in September of 1974?
A Yes.
Q Isn't it a fact, Professor Behrends, that Professor Beck worked for the University prior to September 1974?
A As a research associate, I believe.
Q As a research associate you believe; is that your testimony?
A Yes, up until January, I believe, of 1974.

Q Are you sure that he was not a research assistant professor.

A I don't believe so, but I cannot be positive.

Q You are not sure one way or the other on that, are you?

A He was working on Jerry Musher's grant.

Q Jerry Musher's grant you said?

A Yes.

Q Doing scholarly work on that grant?

A Yes.

Q By the way, what is Professor Beck's area of expertise?

A I don't know what field, what part of chemistry.

Q He is a chemist?

A Yes.

Q And he would have been hired by Professor Musher; [4387] isn't that correct?

A When he worked on Professor Musher's grant he would have been hired by Professor Musher.

Q That is full time employment, is it not, not in terms of 12 hours equivalent, but in terms of the work day that people spend?

A I don't know if he was hired on a full time basis.

Q Now Professor Bell, did he work at Belfer prior to September of 1974?

A Yes, from September 1973.

Q In what capacity?

A He was working on Dr. Roccah's grant.

Q And he was, as your testimony indicates, hired either by Dr. Roccah or possibly the Department Chairman; that was your testimony?

A Yes.

Q And that is on Page 4289?

A Yes.

Q When did Professor Bell become a full time faculty member, regular full time faculty member?

A He is still not a full time faculty member.

Q What is Professor Bell doing?

A He is working on Dr. Roccah's grant.

Q Doing scholarly work?

A Yes.

[4388] Q He has a Ph. D., does he not?

A Yes.

Q He attends Physics Department meetings, does he not?

A Yes.

Q He teaches a course or courses, does he not?

A I think he teaches one.

I'm not sure it is one or maybe two, I'm not certain.

Q One or maybe two courses?

A But I have a tendency to think it is one course.

Q You are not sure whether it is one or two; is that right?

A Right, I'm not absolutely sure.

* * * *

[4389] Q You told us that the President of the University was a member of the Faculty Committee.

Has he ever attended a faculty committee meeting at which you were present other than the very special meeting that you referrd to involving the promotions?

A No.

* * * *

[4392] Q You told us that at a meeting of the Graduate Council there was a vote to reinstitute the Graduate Chemistry, Ph. D. Chemistry Program?

A A recommendation that there should be, the Council should go on record in favor of reinstituting the Ph. D. Program.

Q At the present time, however, that program has been deregistered in futuro by the State of New York; is that not a fact?

A I don't know what the word—

Q To be registered for the future?

A Yes.

Q By State Order?

A Yes.

Q That means that those persons who are in the program as of now are afforded an opportunity to finish but that new people are not permitted into the program?

A Yes, effective September 1st, '74.

Q That was something that was opposed by the president of the institution initially?

A Yes.

Q And by the vice president of Academic Affairs?

A Yes.

Q And by the Chairman of the Chemistry Department?

A Yes.

* * * *

[4396] Q (Dr. Behrends, you testified on direct examination that one of the things that is done in departmental meetings is that it is determined which students will receive research assistantships?

A Yes.

Q Those research assistantships carry with them stipends or awards of money in one way or another?

A Yes.

Q Or payments, sir?

You tell us.

A Well, in fact there is some money that comes from [4397] the University itself for teaching assistantships.

There is money that people have on grants for research assistants.

What we do is, we go through the list of students and sort of rank them, the professors giving their various opinions on whether these students should be supported or should not be and it is always taken into consideration how much money we have available in the pot to distribute amongst these students.

These students in fact come to the Physics Department and that is what we are talking about, only the Physics Department?

A Right.

Q Come to the Physics Department with a need for assistance, I assume?

A Yes.

Q And then you decide as a department how much of that need to meet if any based on the funds that you have available and the qualification of the particular student?

A That is correct.

Q Does that determination have an effect on whether those students remain at the Belfer School?

A It usually does, yes.

Q You have told us that in departmental meetings determinations are made when grades are not kept up whether [4398] a student should be continued; is that a fact?

A Yes.

Q And if a student is not continued I assume he goes out of the University?

A Yes.

Q Out of the School?

A Yes.

Q In most cases out of the University?

A Yes.

* * * *

REDIRECT EXAMINATION

* * * *

[4401] Q Did Dean Komar give you any other reason than the one you indicated under cross-examination as to why he would not approve of Professor Patt serving on the Senate Committee?

A Yes, he did.

[4402] Q What were those other reasons?

A He said that he felt that Dr. Patt did not have sufficient research record and standing in terms of research and he felt that he would not be appropriate to represent the Belfer School.

MR. SHECTMAN: No further questions.

RECROSS-EXAMINATION

Q (By Mr. Kramer) Did Dean Komar direct you to remove Professor Patt from that Senate Committee?

A I don't see how he could direct me to remove. I had no authority to remove anybody from anything.

Q Did he issue an order removing Professor Patt from the committee?

A He simply notified Dr. Fishman that Dr. Mattis would be the representative, the ultimate representative.

* * * *

[MAX LIPSICAS—CROSS EXAMINATION]

[4445] Q And is this a proposal for a renewal of the NSF grant that you referred to in your direct examination?

A May I look through it?

Q Go right ahead.

A Yes, it is.

MR. SHECTMAN: May we have a copy of this?

MR. KRAMER: I have only one copy. When I offer it, I will give it to you.

Q (By Mr. Kramer) And this renewal covers the date starting April 1, 1974?

A Yes.

Q And it is for a proposed duration of three years?

A It's for a proposed duration of three years, yes.

Q And in the amount of 170,970; is that correct?

A That's what was proposed.

Q Yes.

Now, Professor, this proposal that we have here, was both signed by you as principal investigator—

A Yes.

Q —and approved by the Dean?

A Yes.

Q Now, you have told us, Professor, that the Dean, for that matter or any other official of the university, has not changed one of your proposals?

[4446] A That's correct.

Q But it does require his approval, does it not?

A It requires his signature.

Q And he would have the authority to alter that proposal, would he not?

A I don't know.

Q But it does require his approval?

A It requires his approval, yes.

Q And without his approval it can't be submitted?

A I don't know how to answer that because it never happened.

I don't know what the rules are.

Q You don't know, Professor?

A No.

MR. KRAMER: Would you mark this as Employer's Exhibit 156, please, for identification?

MR. SHECTMAN: May I see 155 for a moment?

MR. KRAMER: Of course.

(Handing.)

Q (By Mr. Kramer) Now, Petitioner's Exhibit 155 contains a budget, does it not, a proposed budget?

A Which one is this again?

Q 155.

It contains a proposed budget?

A Yes.

[4447] Q And this is for a three year period?

A Yes.

Q You proposed this budget, did you not?

A I wrote this budget.

Q And the budget calls for a post-doctoral associate?

A Yes.

Q At $12,000 in the first year?

A Yes.

Q And a technician for $10,000?

A Yes.

Q Assuming for the moment that a technician and post-doctoral associate were approved by the NSF, you would be the person who hired those people; is that correct?

A That's correct.

Q And that technician was supposed to do what, Dr. Lipsicas?

You made up this budget.

A Whoever is hired on this budget is completely up to me as to what he is going to do.

Q And what was in—was it in your mind for him to do, Professor Lipsicas?

MR. SHECTMAN: To where is counsel referring?

MR. KRAMER: Right here.

(Indicating.)

MR. SHECTMAN: This is what document?

[4448] MR. KRAMER: 155. It hasn't been received. It hasn't been offered yet.

A The idea of asking for a technician was to get help in maintaining my equipment. But this is proposed.

Q I understand.

Now, I show you Employer's Exhibit 156 marked for identification.

The grant number is stated there, dated April 1, 1974, proposed duration of one year.

A Yes.

Q And apparently on its face it refers to the same study that Employer's Exhibit 155 referred to?

A That's this one.

(Indicating.)

Q That's correct.

A This is the revised budget.

Q Was a revised budget necessary?

A Yes, because I got a telephone call saying that they were not willing to grant that budget.

Q So you developed a revised budget; isn't that correct?

A Yes.

Q And that revised budget did not have in it a technician, did it?

A That's correct.

Q And you reached the decision that a technician, [4449] based on your conversation with the NSF, that a technician would not be necessary on your grant in the light of the circumstances?

A In the light of the fact of the restriction of funds, I decided to divide the budget up that way.

Q That was your decision?

A That was my decision.

Q Now, Professor, who is the post-doctoral associate who was hired under this grant?

A That's Dr. Gerber.

Q Dr. Gerber?

A Yes.

Q And what is Dr. Gerber being paid?

A He is being paid 11,000 for 12 months.

Q And that's based on your decision?

A That's based on my decision.

* * * *

[4467] MR. KRAMER: I will withdraw the question.

Q (By Mr. Kramer) Did you, Dr. Lipsicas, supervise the performance of the research under this contract and indeed perform some of it yourself, the contract being a contract between the university, which we just thumbed our fingers through, and the Atomic Energy Commission?

A As I was saying, I performed this work with a post-doctoral associate.

[4468] Q And you hired this post-doctoral associate, did you not?

A Yes.

Q Did you pay him out of your personal funds?

A Out of my personal funds?

Q Yes.

A No.

Q Did you withhold income taxes for him?

A No.

Q Did you withhold social security taxes for him?

A No.

Q Did you pay workmen's compensation insurance on him?

A No.

Q Did you sign a contract with him?

A I sent him a letter of appointment.

Q You sent him a letter of appointment?

A Yes.

Q Just the way the president sent you, is that correct?

A Yes, I sent him a letter of appointment.

MR. KRAMER: I offer Employer's Exhibit 161 in evidence.

HEARING OFFICER: Any objection, Mr. Shectman?

MR. SHECTMAN: Will we get copies of this?

[4469] MR. KRAMER: Sure, as soon as we can make Xeroxes.

Given the short notice that we had that the witness was going to testify, we didn't have time to make copies of them.

MR. SHECTMAN: I can appreciate that.

No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's Exhibit 161 was received in evidence.)

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Mr. Kramer?

MR. KRAMER: Would you please mark this as Employer's Exhibit Number 162 for identification.

(Whereupon, the above described document was marked as Employer's Exhibit 162 for identification, as of this date.)

* * * *

[4476] Q (By Mr. Kramer) Professor Lipsicas, I show you Employer's Exhibit 164, which has been marked for identification, a letter from the National Science Foundation, dated March 31, 1969, to Dr. Samuel Belkin, President of Yeshiva University, informing the university of a $40,900 grant in GPF 11314 involving Nuclear Magnetic Resonance Measurements in gases and liquids.

[4477] Are you familiar with this letter?

(Handing.)

A Yes.

Q This money was in fact given to the university by the National Science Foundation, was it not?

A It says here granted to Yeshiva University. Yes.

Q And this money funded, did it not, the NMR Measurements in gases and luquids study which is described at some length in Employer's Exhibit 163?

A I will have to check on that. Yes, that's correct.

Q By the way, Professor Lipsicas, it is a fact, is it not, that you supervised this study?

Is that correct?

A I don't understand what you mean by "supervised."

As I have said before, I work on this—on the subject matter of this proposal with either a student or a research associate.

Q You hire the research associate?

A I hire the research associate.

Q Do you tell the research associate what to do when it's necessary to do so?

A When it's necessary to do so. But—

Q You testified to 15 percent of the time, as I recall it?

A Right.

Q And you have the authority to terminate him, as [4478] you told us previously, is that correct?

A That's correct.

* * * *

[4482] Q (By Mr. Kramer) Now, you told us that a Dr. Joel Gerber, is employed on the National Science Foundation grant during the 1974-75 school year.

Is that correct?

A That's correct.

Q At a salary of $11,000.

Is that correct?

A Yes.

Q Not paid by you.

Is that correct?

A Not paid by me, that's correct.

Q What is Dr. Gerber's background?

A He has a PhD from Tufts University. His thesis work he did at the National Laboratory in Boston.

He is an expert in low temperature techniques. That's his background.

Q Now, in addition to—

A Oh, and he has a PhD from Tufts. I think I said that.

Q And he is a chemist or physics?

A He is a physics.

[4483] Q And an expert, I think as you have told us—

A In low temperature techniques, yes.

Q Do you have a Colloquia at your school?

A We do.

Q Do you have Colloquia in chemistry?
A Actually in 1975 we haven't had any.
Q Do you have Colloquia in physics?
A Yes.
Q Do you regularly attend the Colloquia physics Colloquia?
A Not regularly.
Q You don't know whether Dr. Gerber attends because you don't regularly attend, is that correct?
A That's correct.
Q On the occasions when you were there, have you observed Dr. Gerber there?
A Once or twice.
Q How many times have you been there this academic year?
A This academic year?
Q Yes.
A As a guess, I would say six.
Q And he has been there once or two times out of those six?
A That's correct.
[4484] Q Would it be correct to state, Professor, that Professor Gerber was engaged—Dr. Gerber. Correction.
That Dr. Gerber was engaged in scholarly work?
A Yes.
Q He is a Scholar in his own right?
A Yes.
Q And to the best of your knowledge, Professor Lipsicas, he does not possess an appointment at any other school, does he?
A That's correct.
Q Now, do you know a Dr. J. Piatt?
A Yes.
Q He—has he worked under—strike that.
Has he worked under the Atomic Energy Commission grant to which we have made reference during this cross examination?
A Contract.
Q Contract?
A Yes.

Q I stand corrected.
Between the university and the Atomic Energy Commission and under your supervision during the 1972-74 period?
A He worked on the project that was funded by that contract, yes.
[4485] Q And that was for what period of time, just so that we are clear?
My notes show 1972-73 and 73-74 academic years. Would that be correct?
A No.
He worked with me from '71, October '71 to August '73.
Q Would you tell us his background, Professor?
A He has a PhD from the University of Washington in Seattle. He had worked—his thesis work was on the low temperature study of Methane. His expertise was partly in magnetic resonance and partly in low temperatures.
Q And during the time that he was at the Belfer School, he did not possess a full-time appointment anywhere else, did he?
A That's correct, he didn't have any other appointment other than in my lab, yes.
Q That was his full-time job?
A That was his full-time job.
Q And would you say he is a member of the Physics Profession?
A Yes.
Q And Dr. Gerber is a member of the physics profession, is he not?
A Yes.
[4486] Q Now, you were on sabbatical for part of the period that Dr. Piatt was there; is that correct?
A That's correct.
Q But during the time you were there, did you have opportunity to observe him at physics colloquia?
A Occasionally.
Q Now, do you know a Dr. Donald Husa?
A Yes.

Q Is he employed to perform scholarly work under the National Science Foundation grant about which we have had much testimony here today?

A Yes, he was working on the project that was funded by the National Science Foundation.

Q And during what period of time, as best you can recall, Professor Lipsicas?

A I think it was August '73—no; sorry.

It was August '72 to April '73.

Q Hired by you?

A Yes.

Q Professor Gerber was hired by you, was he not?

A That's correct.

Q Professor Piatt was hired—

A I am sorry, these were all doctors, not professors.

Q I am sorry.

Being a layman, the distinction between a professor [4487] and a PhD does distinquish scholarly research slips my mind occasionally.

Was Dr. Gerber hired by you?

A Yes.

Q And Dr. Piatt hired by you?

A Yes.

Q And Dr. Husa hired by you?

A Yes.

Q Did you establish Dr. Husa's salary?

A Yes.

Q Tell him what he would get paid?

A Yes.

Q You could have paid him a little more or a little less, I take it, than the amount of money that had been given to the university under the grant?

A Yes, I can set his pay within the budget that was granted by the agency.

Q As in the case of Dr. Gerber, you set it below by a thousand dollars; is that correct?

A Well, I don't remember in the case of Dr. Husa of where I set it.

Q Would you tell us, as best you recall, what Dr. Husa's background was?

A Yes.

He had a PhD from Ohio State University. He had been a research associate at the—a research associate at [4488] Saclay, which is the French National Atomic Energy Laboratory.

After that time, he had been a research associate at Steven's University. Then he came to me as a research associate.

Q His specialty is physics?

A Physics and low temperature and magnetic resonance.

Q Would it be fair to assert that he is a scholar?

A Yes.

Q A member of the physics profession?

A Yes.

Q And while he was present at Belfer, he was a full-time employed person at Belfer Graduate School of Science?

A He was employed under the contract.

Q Full-time?

A Full-time.

Q He didn't work anywhere else?

A No, he didn't.

Q Do you know a Dr. J. Segal?

A M. Segal.

Q I stand corrected, a Dr. M. Segal.

A Thank you.

Q Is Dr. Segal one of your students?

A Yes.

Q Employed under the National Science Foundation [4489] grant?

A He was a research assistant as a student, paid out of our National Science Foundation grant.

Q And when did he get his doctorate?

A In 1970.

Q Now, forget about that period he was a student, now let's talk about the period 1972-1974.

A Yes.

Q This same Dr. Segal, was he employed under your National Science Foundation grant during that period of time?

A For two months in the summer.

Q Did you hire him, did you not?
A I did.
Q To work as a research associate?
A That's correct.
Q He was no longer a student?
A He was no longer a student.
Q A PhD?
A Yes.
Q In what subject?
A In chemistry.
Q And, of course, a scholar; is that correct?
A It was a continuous—continuation of his thesis.
Q He had his PhD, did he not, at the time he worked [4490] for you?
A That's correct.
Q So that he had his thesis published and had gotten his PhD?
A And had received his PhD.
Q So that when you hired him for two months in the summer, you were hiring him not as a student but as a research associate?
A As a research associate.
Q And he performed scholarly work during those two months?
A That's correct.
Q Did you pay him out of your own pocket?
A No.
Q The university paid him, didn't they?
A I presume so.
Q And it was full-time work, wasn't it?
A Full-time work.
Q Do you know a Dr. Tom Higgans?
A Yes.
Q Did he work as a research associated under your National Science Foundation grant?
A He did.
Q About when did that take place, Dr. Lipsicas?
A Let me see. December '73 to April, I think, the [4491] end of April '74.
Q Till the end of April when?
A '74.

Q And will you tell us something about Dr. Higgans' background, please?
A He had a PhD from—what's the name of the university?—a Catholic University in Washington. He had a post-doctoral research associate with Dr. Goldstein about a year previous to when I hired him.
Q And he worked full-time?
A With me, yes.
Q And he was a professional in his field?
A He was a professional in his field.
Q Doing scholarly work?
A Doing scholarly work.
Q Under a National Science Foundation grant of money to the university?
A Under my—
Q Correct?
A Yes.
Q To the university?
A Well, under the National Science Foundation grant.
Q You have never received a check from the government, have you?
A No, no.
[4492] Q Now, you told us about Dr. Joel Gerber previously, in that he was working for you under a National Science Foundation grant continuance in 1974-75.
Did he also work for you previous to that?
A No.
Q During 1972-74?
A This is Dr. Gerber?
Q Yes.
A No.
Q You are sure about that?
A I am absolutely sure.
Q Did you know a Dr. Theodore or Ted, as he is called, Halpern?
A Yes.
Q And did he work for you under the National Science Foundation grant?
A Yes.
Q When was that, Doctor?
A In the summer of 1974, I believe.
Q Did you hire him?
A I hired him for two months. In the summer.

Q What's his background?
A He has a PhD from one of the German Universities; I don't recall. I think it was Bonn, but I don't recall exactly. He was employed as a research associate on the [4493] Themis contract, how I got to know him, I hired him on the Themis contract.
Q And he did scholarly work for you under the Themis contract?
A That's correct.
Q And under the NSF grant that we are talking about here today?
A That's correct.
Q And you had the authority to hire him?
A I had the authority to hire him, yes.
Q And terminate him?
A Yes, and terminate him.
Q And were responsible for seeing to it that whatever work he performed was done in a scholarly and correct fashion, to the extent those terms apply?
A Again, we worked together.
I don't know how to answer that.
Q You had the authority, did you not, whether he not do the work properly, or not to show up, or to come in drunk, or whatever, to reprimand him and to direct him to do the work properly?
A I think that's correct.
Q That wasn't necessary, but you had the authority, did you not?
A I think that's correct,
[4494] Q That is so with respect to all of the people we have been talking about here—Dr. Gerber, Dr. Husa, Dr. Segal, Dr. Higgans, Dr. Piatt?

* * * *

[4500] A Yes.
Q Now, you know a Dr. Howard Fine?
A Correct.
Q Professor, did Dr. Fine perform research at the [4501] Belfer School pursuant to your AEC grant?
A He was my student.
Q Did he perform research as a doctoral?
A And after he got his PhD, he was a research associate.

Q I am not interested in prior to his obtaining his degree.
A Okay.
Q When did he work, to the best of your recollection, as a research associate?
A As a research associate, it must have been '69 to '70.
Q And what was his field of endeavor?
A Magnetic resonance.
Q And is Dr. Fine a scholar?
A Well, he is a school teacher nowadays.
Q He—is he a scholar, Professor?
A Yes.
Q And a professional in the field of physics?
A Well, as I say, he is working as a school teacher.
Q And I think we find that school teachers are considered professionals, as well, do we not?
A If so, then he is a professional.
Q Professor Lipsicas, you hired Dr. Fine to do to do scholarly research, did you not?
[4502] A That's correct.
Q And you were the one who hired, him, were you not?
A That's correct.
Q And did he perform scholarly research under you?
A Yes.
Q Did you terminate Dr. Fine?
A Yes.

* * * *

[4528] Q Have you travelled, Professor, at university expense, on matters not involving your grants?
A I have never travelled at university expense, it's always been paid out of the—of a grant.
Q By the university?
A By the university except for—
Q Now we will get back to my question, if you don't mind.
A —except for one case in 19—relative to the [4529] grant that you produced on the equipment—I am sorry. Strike that out, please.

One case on a grant similar to the equipment, I did go to Bell Labs. That was reimbursed by the university, not out of my grant.

Q That was paid for by the university?

A Yes.

Q How did you go about getting paid for that—reimbursed for that trip?

A This is the famous case with Dean Gelbart of $8.30, which I think has already been referred to in the testimony.

MR. SHECTMAN: May the witness be directed to answer the question.

HEARING OFFICER: Would you tell us the story, please?

THE WITNESS: Oh.

(Laughter.)

THE WITNESS: Well, this is the days when we had a lot of difficulty with Dean Gelbart.

He chose to take this as a issue that I had gone with Professor Untch, who had left the university, in 1968, to Bell Labs. We were about to put a proposal in, a equipment proposal, to the National Science Foundation.

I put forward the view that it might be more [4530] efficient to buy a small computer for this application since the users were organic chemists and knew nothing about computers, I took them to see someone who was using this kind of equipment at Bell Labs.

Then I applied for the refund of the travel to Bell Labs, which amounted to eight dollars and something, and this was refused by Dean Gelbart because I had not received prior permission to go to Bell Labs.

Q (By Mr. Kramer) What happened there, Professor?

A Well, eventually I did get repaid, but this was part of the issue that was raised when Dean Gelbart was removed from office.

Q In other words, Dean Gelbart refused to approve your expenditure?

A Yes.

Q And was removed ultimately from office with this being one of the causes, is that correct?

A Well, I don't know whether I would call it this was one of the causes, but this was one of the factors that came into the discussion, which eventually he was removed.

* * * *

[RECROSS EXAMINATION]

[4555] Q Have you had discussions about your grants with Doctor Patt? And we're not now just focusing on the last grant, the last grant you had, to which you told me yes.

A Are you talking about the day-to-day operation of the grant?

Q I'm talking about the grant itself.

A The grant itself, not the proposal. The grant, yes.

Q How about the day-to-day administration of the grant?

A Some general questions.

Q About how money may be spent under the grant or grants?

A How much money—

Q About how money may be spent under the grant or grants?

A I've had discussions with him, yes, sir.

Q How expenditures may or may not be charged under the grants?

A Yes.

* * * *

[4556] Q (By Mr. Kramer) Dean Komar, approximately when were you appointed dean? I'm not talking about acting dean, I'm talking about dean of the Belfer School?

A I think it was in 1969, if I recall correctly.

Q And how appointed you?

A President Belkin.

Q And after you were appointed by President Belkin, what action, if any, did you take with respect to the faculty?

[4557] A Well, I asked for a meeting of the faculty. I believe by that time we had the present by-laws, but I'm not positive on that.

So if it were, then it would be the faculty counsel. But it was an assembly of the faculty. I informed them that President Belkin has offered me the position of regular Dean as opposed to acting dean on the recommendation of Vice-President Kogel, who was chairman of the search committee for Dean and that before I would accept that offer, I asked for their approval.

They voted it at the meeting. Then I went back to President Belkin and I accepted the offer.

Q Were you there when that vote was taken or were you advised of the vote later?

A I think I was there.

My recollection is vague from so long ago, but my recollection it wasn't a yes, it was sort of like a vote like acclamation. It wasn't a paper ballot and it wasn't a counting vote, as I recall.

My recollection is not too good on that.

* * * *

[4559] Q (By Mr. Kramer) Dean Komar, who on your staff is responsible for seeing to it—who, if anyone, on your staff, Dean Komar, is responsible for seeing to it that the grant proposals are in accord with governmental regulations and are administered in proper fashion?

A I rely on Doctor Patt for that.

* * * *

HEARING OFFICER: Dean Komar, does this Doctor Patt speak with you or present to you any problems he may come up with in going over a proposal?

THE WITNESS: Yes, occasionally,

I mean, if there—many of the proposals, by the time they reach me, there are no problems, but on occasion there have been problems, in which case Doctor Patt has briefed me about them and discussed them with me.

[4560] HEARING OFFICER: Has he sought your permission to correct them?

THE WITNESS: Or my approval for a course of action that he's proposing or informing me as to what the nature of the dispute is in anticipation of perhaps the faculty member coming to me with his version of the dispute.

HEARING OFFICER: Do you know if Doctor Patt will correct it himself without going to you?

THE WITNESS: Since he doesn't come to me very often, it's my understanding that he takes care of it generally himself.

By the time it comes to me, I sometimes just skim it casually or sometimes I don't even read it when I sign it because I rely on him to have seen to it that it was properly prepared and all the requirements are taken care of.

Q (By Mr. Shectman) Dean Komar, did Professor Patt ever submit to you any report of his review, if any, of Doctor Lipsicas's grant proposals?

A Not to my knowledge, no.

Q Do you have any knowledge of Doctor Patt ever disapproving a grant proposal?

A He has disapproved proposed budgets.

Q Proposed budgets?

[4561] A Yes, and they have gone back to negotiations with the principal investor.

Q And the principal investor himself has—

A And the revisions have had—sometimes it's negotiated as to what categories should or should not be included in the budget.

Q Will that involve, in those cases, the interpretation and administration of government regulations over those grants?

A It could be that or it could be university policy.

Q For instance, what university policy?

A Well, you had testimony earlier about a discussion of whether a secretary should be put in the budget of the grant or not.

The particular discussion in the testimony referred to a conversation between Professor Lipsicas and Mr. MacDonald.

However, Mr. MacDonald is no longer in our employ. The duties of Mr. MacDonald are Doctor Patt's.

Similar discussions with principal investors now take place with Doctor Patt.

Q But in those discussions, Professor Lipsicas did what he desired rather than what the university—

A Ultimately he did what he desired, yes.

* * * *

[4569] MR. KRAMER: Mr. Hearing Officer, it is the University's position that all members of the faculty are either supervisory or managerial employees, and should be excluded from the bargaining unit and hence then an election should not be conducted in the unit petitioned for.

Beyond that, Mr. Hearing Officer, it is the University's position that all division chairman, department chairmen, or department heads, as there sometimes referred to in the record, are supervisors within the meaning of the Act, are managerial employees.

HEARING OFFICER: Or?

MR. KRAMER: The or is an and/or, really. An and/or in our main unit contention as well.

In addition, it is the University's position that the "senior members", at Yeshiva College, who are, as the record shows, the concommitant of department chairmen at other schools, are supervisors and or managerial employees within the meaning of the Act.

Separate and apart from this contention, we assert, [4570] Mr. Hearing Officer, that all principal investigators are supervisory and or managerial employees within the meaning of the law.

Also, we contend that those members of the faculty who are members of the University Review Committee, which is referred to in the faculty handbook which is in evidence in this case, are supervisors and or managerial employees, as are those members of the faculty who are members of the Academic Priorities Committee.

HEARING OFFICER: Academic Priorities Committee?

MR. KRAMER: The proper name for the committee is Academic Priorities and Resource Allocation Committee.

It will be found described in the testimony, I believe, of Dr. Sokol and also of Dr. Fishman and Dr. Rabinowitz.

Beyond this, Mr. Chaiet, we contend that all associate and assistant deans are supervisors and or managerial employees within the meaning of the Act.

Finally, on the question of supervisory and or managerial status, it is our position that all officers of the University, whether or not they engage in teaching or research, are supervisors and or managerial employees, as are all deans, acting deans, whether or not they also engage in addition to their administrative chores in research and or teaching, as some of them do.

[4571] We would include as concommitants of deans for this purpose, the director of the Yeshiva Program, who testified in this case, the director at Striar School, and the director at Teachers Institute For Women.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: As well as the head of the Sephardic Studies Program.

It may be, Mr. Hearing Officer, that the head of the Sephardic Studies Program is correctly called the director of the Sephardic Studies Program.

He appeared in this case and his name is Rabbi Dubrinsky. Just so the record is clear about whom we are talking about.

All these people should be out, as should all other administrators not encompassed within the explicit terms of the petition, whomever they may be.

The petition does speak in rather explicit terms about who it's including, and I don't think there's any intention on anyones part here to have included people such as guidance counselors, or psychological counselors, or other peripheral type of personnel that are found in universities.

I raise that now because if and when an election is [4572] directed, we hope and believe that it should not be directed, but should an election be directed, these issues sometimes come up, and I think the time to dispel these type of issues is now, as opposed to later on in the heat of an election campaign.

* * * *

[4601] MR. SHECTMAN: Let me clarify the position of petitioner to this extent, and if I may respectfully advise Mr. Kramer that it is not a matter of tactics, which we feel the only reason that he's—that these hearings have progressed as long as they have, have in fact been the tactics of this University, but rather that the petitioner's position is that we do not ask for [4602] nor do we anticipate an order of election including unknown faculty to be employed in an unknown school, performing unknown functions, whereby I believe in fact as rare as it has been in these proceedings, that the employer and petitioner are in basic agreement here, that to the extent that no such school currently exists, nor any such employees are actually in that school, we are not seeking any order or direction that they be included in the election.

MR. KRAMER: That is precisely the result we seek, and I think that's tantamount to a stipulation in the exclusion of law school faculty at or about the time of the election, should there be any law school faculty we can pass on.

Supreme Court, U. S.
FILED
JUN 5 1979
MICHAEL RODAK, JR., CLERK

APPENDIX

Volume III (Exhibits), pp. 773-1146

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

—*v.*—

YESHIVA UNIVERSITY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI IN NO. 78-857 FILED NOVEMBER 27, 1978
PETITION FOR CERTIORARI IN NO. 78-997 FILED DECEMBER 19, 1978
CERTIORARI GRANTED FEBRUARY 21, 1979

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

—*v.*—

YESHIVA UNIVERSITY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

INDEX

	Page
Employer's Exhibits:	
1	773
2	789
3	797
4	802
7 (p. 3)	804
10	806
13	825
15	827
16	831
17	833
18	835
19	837
20	839
21	841
22A (pp. 1-42, 66-75, 84-88, 92-98, 116-120, and 125)	843
22B (pp. 1, 8-24, 26-27, 30-34, 38-39)	966

Page

Employer's Exhibits—Continued

22C (pp. 1, 8-46, 53-59, 65, 69-71, 83-84, and 89-91) 1005
22D (pp. 1, 8-33) 1080
22E (pp. 1, 8-26) 1117
28 1147
30 1160
31 1161
32 1162
33 1163
34 1164
35 1165
36 1166
37 1167
38 1168
39 1169
40 1170
48 1171
49 1175
50 1177
51 (through p. 15, pp. 16-19, 20, 21 and 22) 1179
52 1211
53 1213
54 1219
55 1220
56 1234
58 1242
59 1244
60 1246
61 1247
63a (pp. 1-4) 1261
65 (pp. 1-4) 1269
78 1275
79 1277
100 1282
101 1284

Page

Employer's Exhibits—Continued

102 1287
103 1292
104 1295
105 1300
106 1302
107 1304
108 1305
109 1307
110 1315
111 1322
112 1327
113 1335
114 1337
115 1338
116 1340
117 1341
118 1342
119 1343
120 1345
121 1346
122 1351
123 1355
124 1356
125 1357
126 1358
127 1362
131 1364
135 1371
136 (pp. 6-12, 16-27) 1373
137 1399
138 1401
139 1411
140 1412
141 1414

Page

Employer's Exhibits—Continued

143 1415
144 1417
145 1419
149 1423
150 1425

Petitioner's Exhibits:

6 (in its entirety) 1427
12A 1443
12B 1447
16 1449
17 1450
18 1464
105 1455
106 1456
107 (pp. 1-2) 1457
108 1459
109 1460
111 1461
112 1463
113 1466
116 1468
117 1469
118 1471

EMPLOYER'S EXHIBIT No. 1

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
Albany, New York 12224

Secretary, Board of Regents
518: 474-5889, 474-5880

May 29, 1974

Dear Mr. Schutz:

We are sending you herewith, the amendment to charter of Yeshiva University, New York, granted April 26, 1974 by the Board of Regents of The University of the State of New York.

Kindly acknowledge receipt of the document and refer to the charter number so that our records will be complete.

Sincerely,

/s/ Richard J. Sawyer
RICHARD J. SAWYER

Sidney Schutz, Esq.
Yeshiva University
55 Fifth Avenue
New York, New York

THE UNIVERSITY OF THE STATE OF NEW YORK

[Emblem]

EDUCATION DEPARTMENT

Amendment to Charter

YESHIVA UNIVERSITY

THIS INSTRUMENT WITNESSETH That the Regents of The University of the State of New York have amended the charter of Yeshiva University, New York, such charter having been amended from time to time by the Board of Regents, in various respects, and having been last amended by the Regents on January 21, 1970, with respect to the degree-conferring powers of the corporation, to authorize the corporation to establish a school of law and award the degree of doctor of law (J.D.), in conformity with the Rules of the Board of Regents of The University of the State of New York and the Regulations of the Commissioner of Education for the registration of the program leading to such degree.

[SEAL]

Granted April 26, 1974 by the Board of Regents of The University of the State of New York and executed under the seal of said University and recorded as Number 13,011.

/s/ [Illegible]
President of The University
and
Commissioner of Education

/s/ [Illegible]
Chancellor

THE UNIVERSITY OF THE STATE OF NEW YORK

[Emblem]

EDUCATION DEPARTMENT

STATE OF NEW YORK:

COUNTY OF ALBANY:

I, Richard J. Sawyer, Secretary, Board of Regents, certify that the annexed photostatic copy of the Absolute Charter of Rabbi Isaac Elchanan Theological Seminary granted by the Regents of the University of the State of New York on February 27, 1970 is a true copy of the original and of the whole thereof.

[SEAL]

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of the University and of the State Education Department, at the City of Albany, New York, this 21st day of November, 1973

/s/ Richard J. Sawyer
RICHARD J. SAWYER
Secretary
Board of Regents

The

University of the State of New York

Education Department

Absolute Charter of

Rabbi Isaac Elchanan Theological Seminary

This instrument witnesseth That the Board of Regents for and on behalf of the Education Department of the State of New York has granted this absolute charter

1. Incorporating Max J. Etra, Ludwig Jesselson, Norman Lamm, Joseph H. Lookstein, Israel Miller, Emanuel Rackman, and Max Stern and their associates and successors as an educational corporation under the corporate name of Rabbi Isaac Elchanan Theological Seminary, to be located in the city, county and State of New York.

2. The purposes for which such corporation is being formed are to continue, maintain and conduct as an educational corporation this seminary which for many years has been an institutional branch of Yeshiva University. The purposes are to prepare students for the rabbinate and to issue the traditional Certificate of Ordination in connection therewith. The corporation shall be authorized to confer the degree of master of hebrew literature (M.H.L.), doctor of hebrew literature (D.H.L.), master of religious education (M.R.Ed.), and doctor of religious education (D.R.Ed.), in conformity with Rules of the Board of Regents of The University of the State of New York and the Regulations of the Commissioner of Education of the State of New York for the registration of institutions of higher education.

3. The persons named as incorporators shall constitute the first board of trustees. The board shall have power to adopt bylaws, including therein provisions fixing the method of election and the term of office of trustees, and shall have power also, by vote of two-thirds of all the members of the board of trustees, to be not more than 25 nor less than 5.

4. The corporation hereby created shall be a nonstock corporation organized and operated exclusively for educational purposes, and no part of its earnings or net income shall inure to the benefit of any individual, and no officer, member, or employee of the corporation shall receive or be entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services.

5. The principal office of the corporation is to be located in the city, county and State of New York.

6. The Commissioner of Education is designated as the representative of the corporation upon whom process in any action or proceeding against it may be served.

Granted February 22, 1969 by the Board of Regents for and on behalf of the State Education Department, executed under the seal of said Department and recorded therein, Number 10,160

Joseph W. McGovern
Chancellor

Emanuel Stern
President of the University and Commissioner of Education

THE UNIVERSITY OF THE STATE OF NEW YORK

[Emblem]

EDUCATION DEPARTMENT

STATE OF NEW YORK:

COUNTY OF ALBANY:

I, Richard J. Sawyer, Secretary, Board of Regents, certify that the annexed photostatic copy of the Amendment to Charter of Yeshiva University granted by the Regents of The University of the State of New York on January 21, 1970 is a true copy of the original and of the whole thereof.

[SEAL]

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of the University and of the State Education Department, at the City of Albany, New York, this 21st day of November 21, 1973

/s/ Richard J. Sawyer
RICHARD J. SAWYER
Secretary
Board of Regents

The

University of the State of New York

Education Department

Amendment to Charter of

Yeshiva University

This instrument witnesseth That the Board of Regents for and on behalf of the Education Department of the State of New York has amended the charter of Yeshiva University, located in the city, county and State of New York, -- which was granted by the Board of Regents, and amended in various respects, and having been last amended by the Regents on June 27, 1969, by authorizing the university to confer the additional degree of doctor of social welfare (D.S.W.) -- as follows:

1. By authorizing the university to confer the additional degrees of bachelor of education (B.Ed.) and bachelor of science in education (B.S. in Ed.) in conformity with Rules of the Board of Regents of The University of the State of New York and the Regulations of the Commissioner of Education for the registration of institutions of higher education; and
2. By deleting therefrom the authorization to grant the degrees of
   bachelor of hebrew literature (B.H.L.)
   master of hebrew literature (M.H.L.)
   doctor of hebrew literature (D.H.L.)
   bachelor of religious education (B.R.E.)
   master of religious education (M.R.E.)
   doctor of religious education (D.R.E.)

Granted January 21, 1970 by the Board of Regents for and on behalf of the State Education Department, executed under the seal of said Department and recorded therein. Number 10,145

Joseph C. McGovern
Chancellor

President of the University and Commissioner of Education

THE UNIVERSITY OF THE STATE OF NEW YORK

[Emblem]

EDUCATION DEPARTMENT

STATE OF NEW YORK:

COUNTY OF ALBANY:

I, Richard J. Sawyer, Secretary, Board of Regents, certify that the annexed photostatic copy of the Yeshiva University, amendment to charter granted by the Regents of The University of the State of New York on June 27, 1969 is a true copy of the original and of the whole thereof.

[SEAL]

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of the University and of the State Education Department, at the City of Albany, New York, this 21st day of November, 1973

/s/ Richard J. Sawyer
RICHARD J. SAWYER
Secretary
Board of Regents

The

University of the State of New York

Education Department

Amendment to Charter of

Yeshiva University

This instrument witnesseth That the Board of Regents for and on behalf of the Education Department of the State of New York has amended the charter of Yeshiva University, located in the city, county, and State of New York,-- which was duly incorporated as a membership corporation under the laws of the State of New York on March 29, 1897, under the name of The Rabbi Isaac Elchanan Theological Seminary Association, such charter having been amended from time to time by the Board of Regents, in various respects having been last amended, in its entirety, on December 15, 1967,-- by authorizing the university to confer the additional degree of doctor of social welfare (DSW) in conformity with the Rules of the Board of Regents of The University of the State of New York and the Regulations of the Commissioner of Education for the registration of institutions of higher education.

Granted June 27, 1969 by the Board of Regents for and on behalf of the State Education Department, executed under the seal of said Department and recorded therein, Number 9986

Joseph W. McGovern
Chancellor

Richard J. Sawyer
Acting President of the University and Commissioner of Education

THE UNIVERSITY OF THE STATE OF NEW YORK

[Emblem]

EDUCATION DEPARTMENT

STATE OF NEW YORK:

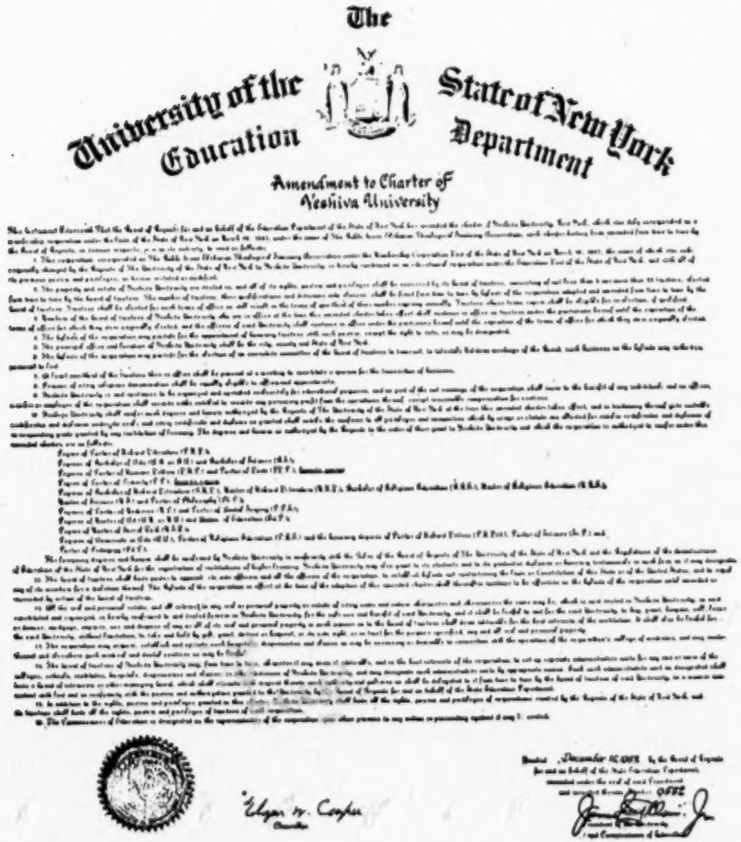
COUNTY OF ALBANY:

I, Richard J. Sawyer, Secretary, Board of Regents, certify that the annexed photostatic copy of the Amendment to Charter of Yeshiva University granted by the Regents of The University of the State of New York on December 15, 1967 is a true copy of the original and of the whole thereof.

[SEAL]

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of the University and of the State Education Department, at the City of Albany, New York, this 21st day of November, 1973

/s/ Richard J. Sawyer
RICHARD J. SAWYER
Secretary
Board of Regents



The University of the State of New York
Education Department

Amendment to Charter of
Yeshiva University

THE UNVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
Albany, New York 12224

December 15, 1967

Division of Law
John P. Jehu, Director
Elizabeth M. Eastman
Louis H. J. Welch
Joseph F. Gibbons
Lorenz F. Loerzel
Donald O. Meserve
Leo Burd
Lawrence W. Reich

Sidney Schutz, Esq.
55 Fifth Avenue
New York, New York 10003

Dear Mr. Schutz:

This is to advise you that the Board of Regents, at its meeting today, formally voted to amend the charter of Yeshiva University in accordance with the petition of the trustees. A copy of the vote adopted is enclosed.

The formal certificate of amendment, restating the charter in its entirety, will be engrossed and forwarded to you. It will, however, be a few months before it is ready for mailing.

Very truly yours,

/s/ John P. Jehu
JOHN P. JEHU

enc.

YESHIVA UNIVERSITY. An application having been made by and on behalf of the trustees of Yeshiva University, New York, for an amendment of its charter in its entirety, it was

Voted, That the charter (certificate of incorporation) of Yeshiva University, New York, which was duly incorporated as a membership corporation under the laws of the State of New York on March 20, 1897, under the name of The Rabbi Isaac Elchanan Theological Seminary Association, such charter having been amended from time to time by the Board of Regents, in various respects, be and the same hereby is amended, in its entirety, to read as follows:

1. This corporation, incorporated as The Rabbi Isaac Elchanan Theological Seminary Association under the Membership Corporations Law of the State of New York on March 20, 1897, the name of which was subsequently changed by the Regents of the University of the State of New York to Yeshiva University, is hereby continued as an educational corporation under the Education Law of the State of New York, and with all of its previous powers and privileges, as herein restated or modified.

2. The property and estate of Yeshiva University are vested in, and all of its rights, powers and privileges shall be exercised by its board of trustees, consisting of not less than 5 nor more than 25 trustees, elected from time to time by the board of trustees. The number of trustees, their qualifications and divisions into classes, shall be fixed from time to time by bylaws of the corporation adopted and amended from time to time by the board of trustees. Trustees shall be elected for such terms of office as will result in the terms of one-third of their number expiring annually. Trustees whose terms expire shall be eligible for re-election, if qualified.

3. Members of the Board of trustees of Yeshiva University who are in office at the time this amended charter takes effect shall continue in office as trustees under the provisions hereof until the expiration of the terms of office for which they were originally elected, and the officers of said University shall continue in office under the

provisions hereof until the expiration of the terms of office for which they were originally elected.

4. The bylaws of the corporation may provide for the appointment of honorary trustees with such powers, except the right to vote, as may be designated.

5. The principal office and location of Yeshiva University shall be the city, county and State of New York.

6. The bylaws of the corporation may provide for the election of an executive committee of the board of trustees to transact, in intervals between meetings of the Board, such business as the bylaws may authorize, pursuant to law.

7. At least one-third of the trustees then in office shall be present at a meeting to constitute a quorum for the transaction of business.

8. Persons of every religious denomination shall be equally eligible to offices and appointments.

9. Yeshiva University is and continues to be organized and operated exclusively for educational purposes, and no part of the net earnings of the corporation shall inure to the benefit of any individual; and no officer, member or employee of the corporation shall receive or be entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for service.

10. Yeshiva University shall confer such degrees and honors authorized by the Regents of the University of the State of New York at the time this amended charter takes effect, and in testimony thereof give suitable certificates and diplomas under its seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar certificates and diplomas of corresponding grade granted by any institution of learning. The degrees and honors so authorized by the Regents in the order of their grant to Yeshiva University and which the corporation is authorized to confer under this amended charter, are as follows:

Degree of Doctor of Hebrew Literature (D.H.L.);

Degrees of Bachelor of Arts (A.B. or B.A.) and Bachelor of Science (B.S.);

Degrees of Doctor of Humane Letters (L.H.D.) and Doctor of Laws (LL.D.), *honoris causa*;

Degree of Doctor of Divinity (D.D.), *honoris causa*;

Degrees of Bachelor of Hebrew Literature (B.H.L.), Master of Hebrew Literature (M.H.L.), Bachelor of Religious Education (B.R.E.), Master of Religious Education (M.R.E.), Master of Science (M.S.) and Doctor of Philosophy (Ph.D.);

Degrees of Doctor of Medicine (M.D.) and Doctors of Dental Surgery (D.D.S.);

Degrees of Master of Art (A.M. or M.A.) and Doctor of Education (Ed.D.)

Degree of Master of Social Work (M.S.W.);

Degrees of Associate in Arts (A.A.), Doctor of Religious Education (D.R.E.) and the honorary degrees of Doctor of Hebrew Letters (D.H.Litt.), Doctor of Science (Sc.D.) and Doctor of Pedagogy (Pd.D.).

The foregoing degrees and honors shall be conferred by Yeshiva University in conformity with the Rules of the Board of Regents of the University of the State of New York and the Regulations of the Commissioner of Education of the State of New York for the registration of institutions of higher learning. Yeshiva University may also grant to its students and to its graduates diplomas or honorary testimonials in such form as it may designate.

11. The board of trustees shall have power to appoint its own officers and all the officers of the corporation, to establish bylaws not contravening the laws or Constitution of this State or of the United States, and to expel any of its members for a violation thereof. The bylaws of the corporation in effect at the time of the adoption of this amended charter shall thereafter continue to be effective as the bylaws of the corporation until amended or rescinded by action of the board of trustees.

12. All the real and personal estate, and all interest in any real or personal property or estate of every name

and nature whatsoever and wheresoever the same may be, which is now vested in Yeshiva University, as now constituted and organized, is hereby confirmed to and vested forever in Yeshiva University, for the sole use and benefit of said University, and it shall be lawful to and for the said University, to buy, grant, bargain, sell, lease or demise, mortgage, improve, use and dispose of any or all of its real and personal property in such manner as to the board of trustees shall deem advisable for the best interests of the institution. It shall also be lawful for the said University, without limitation, to take and hold by gift, grant, devise or bequest, in its own right, or in trust for the purpose specified, any and all real and personal property.

13. The corporation may acquire, establish and operate such hospitals, dispensaries and clinics as may be necessary or desirable in connection with the operation of the corporation's college of medicine, and may render thereat and elsewhere such medical and dental services as may be lawful.

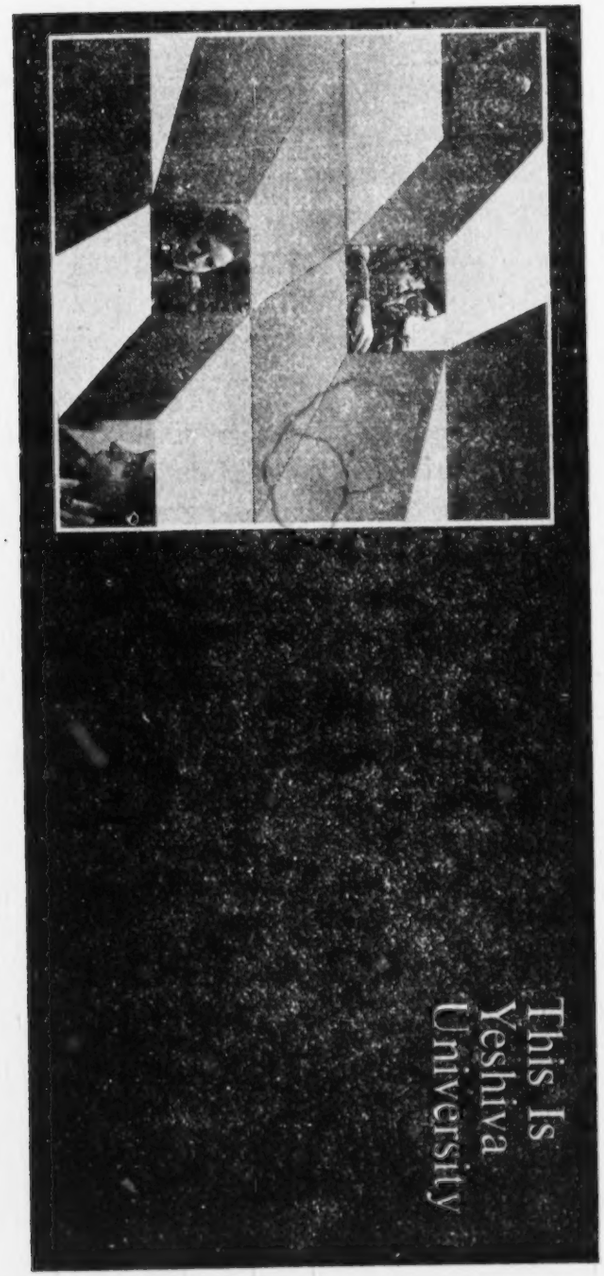
14. The board of trustees of Yeshiva University may, from time to time, whenever it may deem it advisable, and in the best interests of the corporation, to set up separate administrative units for any one or more of the colleges, schools, institutes, hospitals, dispensaries and clinics, or other divisions of Yeshiva University, and may designate such administrative units by appropriate names. Each such administrative unit so designated shall have a board of overseers or other managing board, which shall execute with respect thereto such authority and policies as shall be delegated to it from time to time by the board of trustees of said University, in a manner consistent with law and in conformity with the powers and authorization granted to the University by the Board of Regents for and on behalf of the State Education Department.

15. In addition to the rights, powers and privileges granted in this charter, Yeshiva University shall have all the rights, powers and privileges of corporations created by the Regents of the State of New York, and its

trustees shall have all the rights, powers and privileges of trustees of such corporation.

16. The Commissioner of Education is designated as the representative of the corporation upon whom process in any action or proceeding against it may be served.

EMPLOYER'S EXHIBIT NO. 2



University Centers

Main Center
500 West 185th Street / New York 10033 / (212) 568-8400

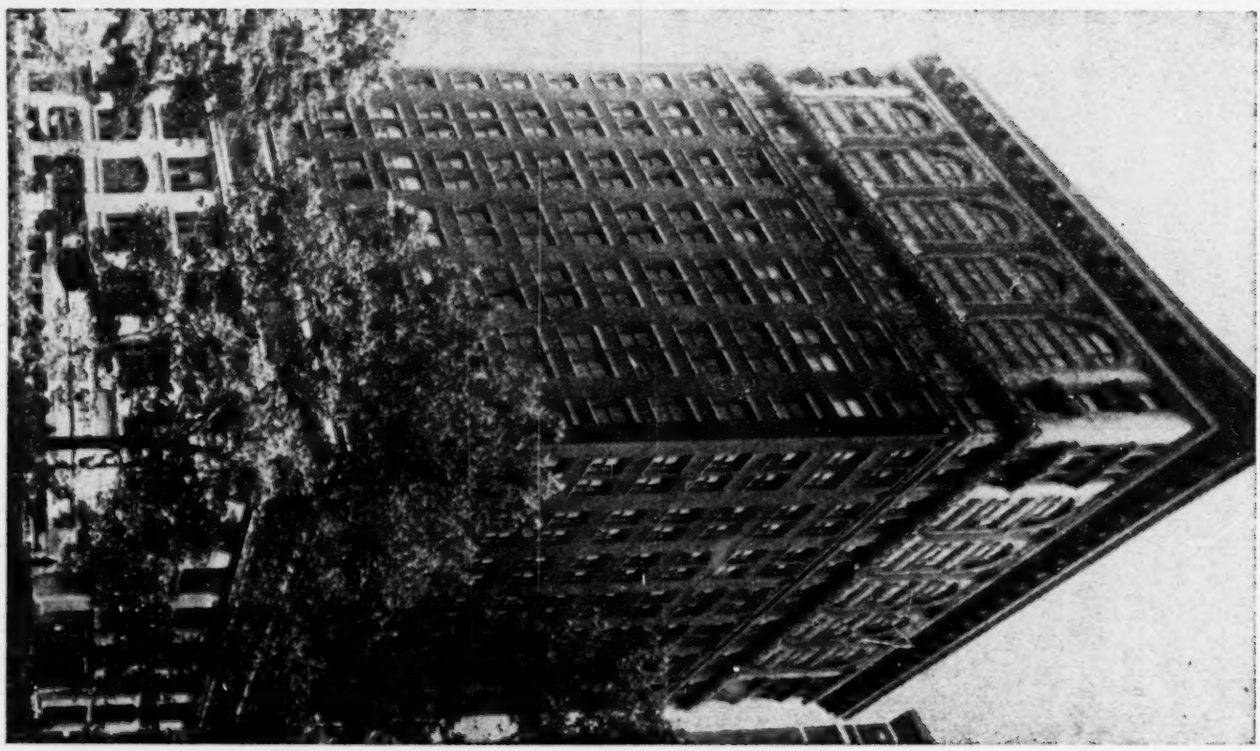
Graduate Center
25 Fifth Avenue / New York 10003 / (212) 255-5600

Midtown Center
245 Lexington Avenue / New York 10016 / (212) 255-5600

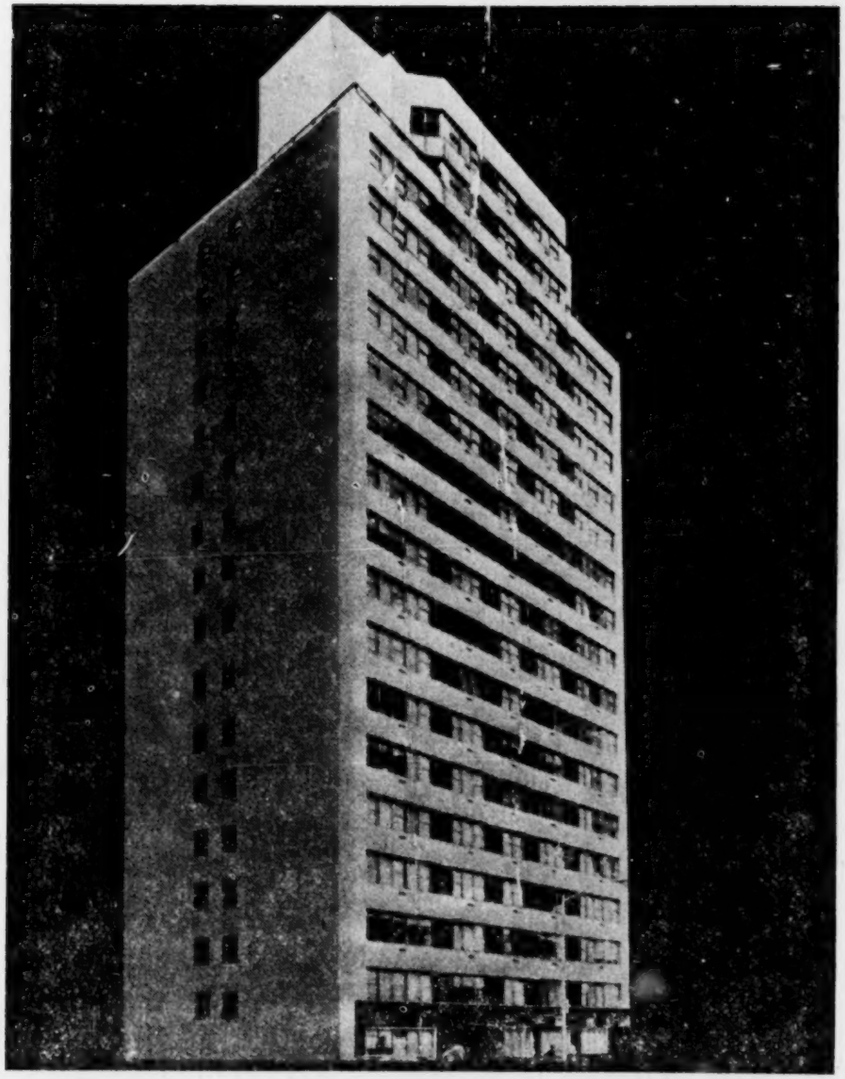
Bronx Center
Eastchester Road and Morris Park Avenue / New York 10461 / (212) 430-2000

MAIN CENTER

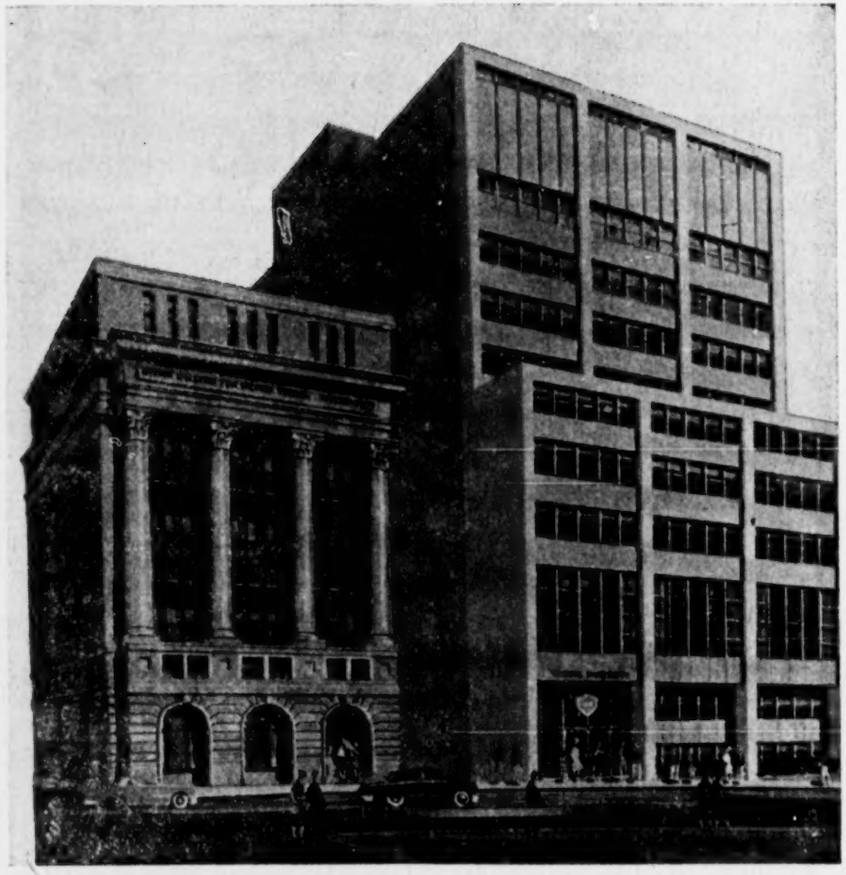
1	Furst Hall (classroom-administration) 500 West 185th Street
2	Mendel Gottesman Library 2520 Amsterdam Avenue (bet. 185th & 186th Sts.)
3 & 4	Original Main Building and Riets Hall 2540 Amsterdam Avenue (186th & 187th Sts.)
5	Morgenstern Residence Hall 2525 Amsterdam Avenue (185th & 186th Sts.)
6	Danciger Campus Amsterdam Avenue at 185th Street
7	Rubin Residence Hall 2501 Amsterdam Avenue (184th & 185th Sts.)
8	Science Center Amsterdam Avenue at 184th Street
9	Student Union Building Amsterdam Avenue & 183rd Street
10	Yeshiva University Museum (at Mendel Gottesman Library) 2520 Amsterdam Avenue

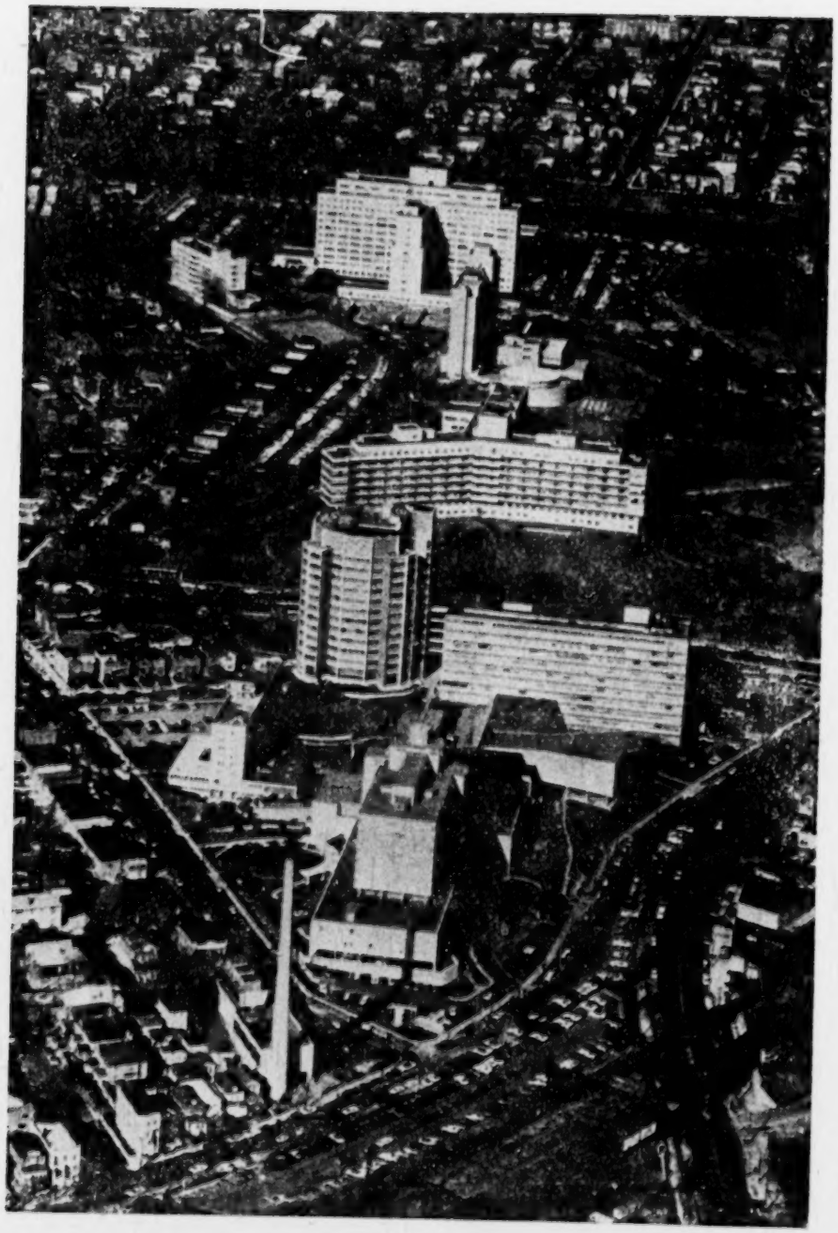


794



795





EMPLOYER'S EXHIBIT NO. 3

YESHIVA UNIVERSITY
OFFICE OF THE REGISTRAR

GRADUATE CREDIT FOR UNDERGRADUATES

A. Graduate Courses for Undergraduate Credit Only

Qualified undergraduates are permitted to take graduate courses for undergraduate credit. Regulations governing such courses are found in Form P3.2.

B. Graduate Courses for Graduate Credit Only

There are certain circumstances under which seniors who are not eligible for joint programs (see below) or who are interested in subjects in which joint programs do not exist, may take graduate courses for graduate credit. A senior who is short less than 12 credits towards graduation may take graduate courses, provided that his combined work load does not exceed the normal undergraduate program. Such students must apply through the Office of Admissions for admission to the graduate school and program of their choice. They must meet all normal requirements for admission to the graduate school, and until they receive their bachelor's degree will have the status of a Regular Student with an entrance condition if they have applied for a degree program, or a Transient if they have not. They must also pay graduate tuition for the graduate courses in addition to their undergraduate tuition and charges.

C. Joint Bachelor's-Master's Programs

Several joint bachelor's-master's programs exist, under which qualified undergraduates can take courses in the University's graduate schools, and receive credit simultaneously toward their undergraduate degree and a graduate degree. In this way a student can shorten the usual 1½-2 year period re-

quired for a master's degree. To be eligible for such programs the student must meet the academic requirements indicated in the various programs below. The student must apply on Form P3.3; applications should be filed at least a month before the end of the semester prior to the one in which the student wishes to start, e.g., by May 1 of the Junior year for a student who wishes to enter the program as a Lower Senior. When a student is approved he will receive a formal letter of admission from the Office of Admissions. He must follow the attendance regulations and grading system of the school at which the courses are being taken, and must count the joint courses in his work load, subject to all usual credit limitations. While the student must also register for the joint courses with the graduate school during the regular registration period, there will be no tuition charge for such courses above the regular undergraduate tuition. *Admission to a joint program is not automatic even if the student meets all the requirements.* The student must receive the approbation of a committee representing both the undergraduate and graduate faculty in his subject, and may be required to appear before them for a personal interview.

Note that all requirements for the BA (or BS) and the MA or (MS) include not only the completion of all required course work, but also, on the undergraduate level, the completion of all college requirements (including, for YC students, continuation in EMC, JSS, or YP), and on the graduate level, the passing of a written comprehensive examination, or completion of a master's project, as required.

In all programs students are limited to two graduate courses a semester unless otherwise specified.

As long as the student is in the bachelor's-master's program he must complete the entire program in order to receive the bachelor's as well as the master's; only if he withdraws from a program can he

receive the bachelor's alone. If he withdraws he cannot count the courses he has taken toward both the bachelor's and the master's, but only toward one of the degrees.

The currently existing programs, and any special requirements of each, are listed below. For further information consult the appropriate department.

I. CHEMISTRY (Yeshiva College and Stern College with Belfer Graduate School)

An average of 3.0 generally and 3.4 in Chemistry is required. See Form P1.3J for the proper sequence of courses to be taken. Admission to the program will be considered after the completion of Chemistry 15R-16R.

II. EDUCATION (Stern College with Ferkauf Graduate School)

Stern College Education majors who are interested in Elementary Education and in Teaching English in Secondary School are to consult with their department chairman.

III. JEWISH EDUCATION (Erna Michael College and Stern College with Ferkauf Graduate School)

a. An Erna Michael College student is eligible if he is a senior with a major, or two minors, in Bible, Education, Hebrew, History, or Philosophy, with an average of 85% generally and 87% in the major or minors.

b. A Stern College student need not be a Jewish Studies major, but must have completed at least 18 courses in Jewish Studies at the High level, with an average of 3.2 generally and 3.4 in the field of Jewish Studies.

IV. JEWISH STUDIES (Erna Michael College, Yeshiva College, and Stern College with Bernard Revel Graduate School)

a. An Erna Michael student must be a senior with a major or minor in Bible, Hebrew, History, Philosophy, or Talmud, with an average of 85% generally and in the intended field of graduate study.

b. A Yeshiva College student must have an average of 3.2 generally and 3.4 in Jewish Studies. He must have completed two years in Yeshiva College, be majoring in Hebrew or Jewish Studies, and have completed the following courses in Hebrew 1-2; 3; 4; 71; 72; 73; 74. In addition, if the student intends to major in Jewish History or Talmudid Studies in Revel, he must have completed History 1;2, and 71; 72; if he intends to major in Hebrew Literature, he must have completed two additional courses in Hebrew literature; if he intends to major in Jewish Philosophy, he must have completed two semesters in philosophy courses numbered under 70 and two semesters of philosophy numbered over 70.

c. A Stern College student must have an average of 3.2 generally and 3.4 in Jewish Studies. She must have completed two years at Stern College, be majoring in Hebraic or Judaic Studies, and have completed four semesters of Hebrew and four semesters of Bible on at least an intermediate level. In addition, if the student intends to major in Hebrew History in Revel, she must have completed History 1,2 and 71; 72; if she intends to major in Hebrew Literature, she must have completed two additional courses in Hebrew Literature; if she intends to major in Jewish Philosophy, she must have completed two semesters of philosophy courses numbered under 30 and two semesters of philosophy numbered between 31 and 60.

V. MATHEMATICS (Yeshiva College and Stern College with Belfer Graduate School)

An average of 3.0 generally and 3.4 in Mathematics is required. Admission to the program will be considered after the student completes Mathematics 23-24.

VI. PHYSICS (Yeshiva College with Belfer Graduate School)

An average of 3.0 generally and 3.2 in Physics is required. See Form P1.6J for the proper sequences of courses to be taken.

VII. PSYCHOLOGY (Yeshiva College and Stern College with Ferkauf Graduate School)

Phychology majors who are interested in Educational, Experimental, or Social Psychology will be considered for admission after completion of Psychology 1 and 21 additional credits. An average of 3.2 generally and 3.4 in Psychology is required.

VIII. SOCIAL WORK (Stern College and Erna Michael College with Wurzweilder School of Social Work)

These programs are being arranged; they are expected to be approved and go into effect in Fall 1974.

EMPLOYER'S EXHIBIT No. 4

AT YESHIVA COLLEGE

WE KNOW WHERE WE'RE GOING—DO YOU?

NEW PROGRAMS—NEW IDEAS

Accelerated programs and courses in emerging fields. All in the YC tradition of the best of both worlds—a first-rate Jewish education together with an excellent liberal arts curriculum; the resources of a large university and the personal attention of a small college—and the finest in preparation for professional education. Each year, 90% of YC seniors are admitted to graduate and professional schools across the country.

NOW AT YESHIVA COLLEGE

Earn an M.A. simultaneously with a B.A.—often in just four calendar years

Programs for qualified students in conjunction with YU's outstanding graduate schools. Many courses taught by graduate school faculty.

Opportunities for independent and supervised study on most programs. Combined B.A./M.A. programs bring together YC and

BELFER GRADUATE SCHOOL OF SCIENCE

Chemistry
Mathematics
Physics

BERNARD REVEL GRADUATE SCHOOL

Judaic Studies

FERKAUF GRADUATE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES

Educational Psychology
Experimental Psychology
Social Psychology

Major or minor in Information Sciences

Learn the philosophy behind computer languages, not only the technical skills. The major applies to careers in a variety of professions; the minor is an asset of increasing importance to professionals in the natural and social sciences.

Minor in Business

Offered as of September, 1974

Gain admission after the junior year in high school

Early Admissions Program for applicants who are high school juniors, have completed 15 academic credits and have an A-average and SAT verbal and math scores of 600.

BUILDING ON A SOLID CURRICULUM

What's new is just part of the story. YC also offers these majors:

Biology
Chemistry
Classical Languages (Greek and Latin)
Economics
English
French
Hebrew
History
Jewish Studies
Mathematics
Music
Philosophy
Physics
Political Science
Pre-Engineering
Premedical
Predental
Psychology
Sociology
Speech and Drama

Plus, a joint B.A./B.S. program in Engineering, an Early Decision Program, Advanced Placement . . .

Yeshiva College could be where you should be going. To find out more on how to get there, contact:

DIRECTOR OF ADMISSIONS
YESHIVA UNIVERSITY
500 West 185th Street/New York, N.Y. 10033/
(212) 568-8400

EMPLOYER'S EXHIBIT No. 7

Salaries of Professors:

If you eliminate the salary of the one "retired" biochemist, then one finds that the salary ranges for the remaining all-tenured chemistry faculty are adequate for nine month contracts. There is no teaching in the summer, but professors can be paid from grants for research activities to augment salaries.

Teaching Loads:

Teaching loads were idealistic, but not very economical. Apparently, one didactic course per man per semester is the average. When you realize the low number of graduate students in each of these graduate courses, the cost is indeed quite high.

Administration:

The Graduate Dean, apparently, exercises very little control over the chemistry graduate program. The admission of students, the appointment of committees, the supervision of academic hurdles are left almost entirely in the hands of the department chairman. Since good graduate students are so difficult to obtain, supervision over the admission process (screening) is most desirable. In addition, the practice of letting the graduate students know who is making up the cumulative exams, and the practice of giving half-passes and not requiring a definite number of passes per definite number tried, is not conducive to a good screening process. The fact that GRE scores are not required and that a fixed TOEFL score for foreign students is not required tends to soften, too much, the admission process.

Historically, the Ph.D. programs in Math and Physics were started many years before the Chemistry program was initiated. Both the Math and Physics programs have achieved national reputations, as evidenced by national ratings. However, it was clear to the committee that the Chemistry department does not share such prestige.

We were impressed very much by the spirit of cooperation between the three departments, both with respect to the teaching of relevant courses and the sharing of research equipment.

There is also evidence of significant interaction between the biochemistry and biophysics programs at the Medical School and the Belfer chemistry program.

Historically, chemistry came upon hard times in the early 1970's. Government cutbacks, changes in the economy of the country, and an "apparent" oversupply of chemists led to significant unemployment and underemployment among chemists. Academic positions, in general, were difficult to find since many universities had expanded to capacity, and most academic slots were filled. Ph.D. production

EMPLOYER'S EXHIBIT NO. 10

May 6, 1974

Dr. Dorthy G. Harrison
Director
The State Education Department
Albany, New York

Dear Dr. Harrison,

In response to your request for more details concerning our planning for University-wide strengthening and integration of chemistry, I attach various memoranda that should be indicative. These memos go back to March 7, 1974, i.e. *prior* to the evaluation team's visit, and refer back to meetings that began in *November*, 1973 (a month after my arrival at the University).

Although planning continues, both at the interdepartmental and at the faculty administration levels, as it must and as it always will, it is certainly proper to say that all of us, faculty and administration alike, are in general agreement with the directions of the plans in Prof. Pomerantz's memo of April 22. I am pleased to report that these plans have not only been encouraged by Dr. Socol (the Vice President for Business Affairs) and by myself, but that they were also presented by Prof. Pomerantz to the entire Executive Council and met with a unanimously favorable reception there as well. I am quite confident that 2-3 years from now our chemistry picture at YU will be very similar to that which Prof. Pomerantz projects and that the result will be an enviable strengthening at the doctoral as well as at the undergraduate levels.

Sincerely,

J. A. Fishman
Vice President
Academic Affairs

cc: Pres. Belkin
Vice Pres. S. Socol
Prof. A. Koman
Prof. M. Pomerantz

BELFER GRADUATE SCHOOL OF SCIENCE
YESHIVA UNIVERSITY

To: Dean Arthur Komar

Date: April 22, 1974

From: Prof. Martin Pomerantz
Chairman
Department of Chemistry

Subject: Projections for the Chemistry Department at Yeshiva University

As part of the Chemistry Department's projection for the next five years I am enclosing a list of the courses which should be taught at Yeshiva College and Stern College along with numbers of sections and teaching assistants needed to staff these sections. The courses listed should allow American Chemical Society accreditation of the program, assuming, of course, some upgrading and modernization of the appropriate courses. I am also providing you with a list of the graduate courses to be taught, assuming a reasonable (number and distribution among areas) steady state population of graduate students.

From this data it is clear that we need 13 full time faculty, as is indicated on the appropriate enclosed sheet. This assumes a credit load of approximately 7½ credits per faculty per semester. This is to be contrasted with 1 course per man per semester in chemistry departments at the first rate institutions. This list does not include a diminished load for the Department Chairman nor does it include allowance for faculty members on Sabbatical leave. In these cases we might be able to delete one or two courses and/or use a part time instructor if this proves necessary.

I have listed a separate faculty member at Stern College since I believe if there is to be a Chemistry program given at SCW which would include Freshman, Organic and Physical chemistry there must be a faculty member in residence. The advanced courses for SCW students will be taken at the main campus.

Since the University now has the equivalent of 14 faculty members on its payroll this plan for 13 faculty represents a decrease in total faculty. Presently Belfer has 7, Yeshiva College has 4, Stern College has 2½ and Sue Golding hires in the equivalent of about ½. Thus there should be a net of about $20,000 less spent on faculty salaries.

Assuming professors Levine, Blackman and Meyer will retire in the next five years the salary savings by replacing these people with assistant professors would be about $40,000. This net decrease of about $60,000 in faculty salaries must then be used to support the 16 teaching assistants (16 T.A.'s @ $3,600 = $57,600) which will be required to staff the laboratory sections.

Sixteen teaching assistantships are necessary by the following calculation. There are 53 total semester assistant slots available for the year. This assumes only Freshman, Organic and Physical Chemistry will be taught at SCW. Each laboratory is about 4-6 contact hours. Thus if an assistant is to have an average load of about 8 contact hours per semester we need 54/3 = 18 assistants. We will, however, try to make due with 16 assistants.

There is also a full time stockroom attendant at Yeshiva College whose slot must be kept and there was a full time person, Joe Levovitz, whose job it was to oversee the operation of the undergraduate laboratories and the instrumentation. This slot also must be retained. There should also be a budget for departmental expendable supplies to be used for graduate student education. This is in addition to the departmental budget for undergraduate instruction both in formal laboratory courses and in student research.

Of course Ken Hylton and Al Singelton are necessary for the Chemistry Department.

I would also like to suggest that the non-tenured members of the chemistry departments, other than Prof. Blackman since he will retire in a few years, one at YC and one at SCW be replaced within a year by productive researchers and teachers. As is indicated in the preliminary report from New York State there should be a single department of people doing graduate research along with

undergraduate teaching. These people, if they are of a high caliber, can attract outside sources of support which will include overhead. The two untenured faculty presently at Yeshiva University can not carry out research of this caliber. I also believe that the non-tenured member of the Y.C. Chemistry Department can, since she has been associated with Yeshiva University for a number of years, be offered the position of "undergraduate laboratory director." This position, with the assistance of a graduate student, can replace the position held by Joe Levovitz. As we begin to replace faculty we will also begin to adequately represent the four major areas of chemistry and can thus offer a fuller program.

Arrangements must be made for whatever secretarial help is available for the Y.C. Chem. Dept. to be made available to the single department. We will clearly have much more typing and other secretarial work when we have undergraduate students.

In several years we would like to see all of the undergraduate chemistry laboratories moved into the BGSS building. For reasons we have already discussed all of the laboratories must be moved rather than splitting them up. If they are not moved all at once then there must be some (unnecessary) duplication of stockroom, stockroom attendant, equipment and instrumentation etc.

MP/md

cc: Vice President Fishman
cc: Vice President Socol

Dean Arthur Komar — April 30, 1974

Prof. Martin Pomerantz
Chairman,
Dept. of Chemistry

Projections for the
Chemistry Department at
Yeshiva University

I have recently been informed that the Chemistry Department at Stern College has two full-time and two part-time faculty (or the equivalent of 3 faculty) rather than the 2½ I indicated in my memo to you of April 22, 1974. Thus the University now actually has the equivalent of 14½ chemistry faculty members. This additional amount of funds (½ faculty member) can allow us to budget for some of the necessities such as departmental expendable supplies, upgrading undergraduate laboratory course content, repair of instructional instrumentation, etc. which would have been almost impossible in the original plan I outlined to you.

MP/md

cc: Vice President Fishman
Vice President Socol

13 Chemistry Faculty Total to Serve BGSS, YC, SCW and AECOM

4 Organic, 4 Phys.Chem., 2 Inorganic, 1 Analytical, 1 Biochem., 1 at SCW full time (Organic)

FALL SEMESTER

Faculty	Graduate Course	Undergr. Course	Lab.	Seminar	Credits	Approx. Contact Hours
Organic	Adv. Org. I	Freshman			7½	6
Organic	Topics in Organic	Organic			7½	6
Organic		Organic	Org. Lab	Pre-res. seminar	6	15+
Organic	Bio-Org.Mech.(AECOM)	(or SCW Org.)		Org. Seminar	6-9	6+
Physical		SCW Phys. Chem.	Phys. Chem. Lab YC & SCW		9	15
Physical	Intro.Chem.Phys.I	Phys. Chem.			7½	6
Physical	Topics Phys.Chem.	Phys. Chem.			7½	6
Physical	Phys.Chem.(AECOM)	(or SCW Freshman)	Fresh. Lab		6½	15+
Inorganic		Freshman Theoret. & Inorg.		Topics	7	7
Inorganic	Topics in Inorganic	Freshman			7½	6
Analytical	Spec.Phys & Math		Analyt. Lab		7½	9
Biochemist	Adv.Org.or Biochem.	Biochem.			7½	6
SCW		2 Fresh. &/or Organic	Fresh & Org.Labs (SCW)		10	15+

SPRING SEMESTER

Faculty	Graduate Course	Undergr. Course	Lab.	Seminar	Credits	Approx. Contact Hours
Organic	Adv.Org.II	Freshman			7½	6
Organic	Synthetic Org.	Organic			7½	6
Organic	Techniques of Org.Research		Tech. Lab	Org. Seminar	6-9	11
Organic		Organic	Org. Lab.	Pre res. Sem.	6½	15+
Physical	Statist. Thermo.	Phys.Chem.			7½	6
Physical	Intro.Chem. Phys.II	Freshman			7½	6
Physical		SCW Phys. Chem.	P.Chem. Lab YC & SCW		9	15
Physical	Phys.Chem. (AECOM)	(or SCW Freshman)		Topics	5½	4+
Inorganic		Adv. Inorg.	Fresh Lab		5	15+
Inorganic	Adv.Inorg.	Fresh-man			7½	6
Analytical	Methods of Chem.Kinetics		Adv. Lab		7½	9
Biochem.	Topics Org. Chem.	Biochem.			7½	6
SCW		Freshman & Org.	Fresh. & Org. Lab (SCW)		10	15+

CHEMISTRY DEPARTMENT

Graduate Courses

Fall

Name	Credits	Periods	TA's
Ch. 121 Adv. Organic I	4½	3	
CH.186.1 Spec. Phys & Math for Chem	4½	3	
CH.181.1 Intro to Chem Phys	4½	3	
Ch.221.1 Topics in Org. Chem	4½	3	
Ch.251.1 Topics in Phys Chem	4½	3	
Add'l Inorg. or Phys Chem Course	4½	3	
230.1 Org. Chem. Seminar	up to 4½	3	
500.1 Preresearch Seminar	1½	1	
Add'l. Organic or Biochem (or other)	4½	3	
Ch 200 Masters Research			
Ch 450 Chem Research			

Spring

Ch. 103.1 Adv. Inorg. Chem	4½	3	
Ch. 122 Synthetic Org. Chem	4½	3	
Ch 123 Adv. Org. Chem. II	4½	3	
Ch 125 Tech. of Org. Research	3	2	
Ch 126 Lab for above	1½	6	2
Ch 152 Statist. Thermodynamics	4½	3	
Ch 181.2 Intro to Chem. Phys II	4½	3	
Ch 221.1 Topics in Organic Chem.	4½	3	
Ch 158 or 286 Methods of Chem. Kinetics or Quant. Theory of Org. Chem.	4½	3	
Ch 251 or 203 Topics in Phys Chem or Inorg.	4½	3	
Ch 500.2 Preresearch Seminar	1½	1	
Ch 230.2 Organic Seminar	up to 4½	3	
Ch 200 Masters Research			
Ch 450 Chem. Research			

Yeshiva College

Undergraduate Courses

Fall

Name	Credits	Periods	Sections	TA's
Ch 5 Freshman	3	3	3	
Freshman Lab.	2	5	6	8
CH 13 Organic	3	3	2	
13L Org. Lab.	2	5	3	4
Ch 15 Physical	3	3	2	
15L Physical Lab.	3	6	1	2
Ch. 27 Topics (Seminar)	1	1	1	
Theoret & Inorganic	3	3	1	
Analytical Laboratory	3	6	1	2
Biochem	3	3	1	
Thesis				

Spring

Name				
Ch 6 Freshman	3	3	3	
Freshman Lab	2	5	6	8
Ch 14 Organic	3	3	2	
14L Organic Lab	2	5	3	4
Ch 16 Physical	3	3	1	
16L Physical Lab	3	6	1	2
Ch 27 Topics (Seminar)	1	1	1	
Adv. Inorganic	3	3	1	
Biochem	3	3	1	
Advanced Laboratory	3	6	1	2
Thesis				

Undergraduate Courses, Stern College

FALL

Name	Credits	Periods	Sections	TA's
Chem 1 Basic Chemistry	3	3	1	
1 L Lab	2	5	2	3
Chem 1.1 Gen'l Chemistry	3	3	1	
1.1 L Lab	2	5	2	2
Chem 13 Organic Chemistry	3	3	1	
13 L Organic Lab.	2	5	2	3
Chem 15 Physical Chemistry	3	3	1	
15 L Physical Lab.	3	6	1	2

SPRING

Chem 2 Basic Chemistry	3	3	1	
2 L Lab	2	5	2	3
Chem 2.1 Gen'l Chemistry	3	3	1	
2.1 L Lab	2	5	2	2
Chem 14 Organic Chemistry	3	3	1	
14 L Organic Lab.	2	5	2	3
Chem 16 Physical Chemistry	3	3	1	
16 L Physical Lab	3	6	1	2

Advanced undergraduate and graduate courses to be given at the main campus.

BELFER GRADUATE SCHOOL OF SCIENCE
YESHIVA UNIVERSITY

To:

Professor Eli Levine
Chairman
Department of Chemistry
Yeshiva College

Date:

April 4, 1974

From:

Prof. Martin Pomerantz
Chairman
Dept. of Chemistry, BGSS

Subject:

"Industrial Chemistry" Course

As was discussed in Dr. Fishman's office, and most recently in Dean Komar's office, there seems to be a consensus that an "Industrial Chemistry" course should be offered at Y.U. It would be a hundred level course, that is, open to Y.C., S.C.W. and B.G.S.S. students. I would appreciate it if Prof. Blackman could handle and coordinate the course and I would hope he would be given the appropriate credit toward his teaching load by you and Dean Bacon, bearing in mind it is a new course and will be an upper level undergraduate-graduate course. The number of credits, hours per week and which semester it is to be offered will be worked out by Prof. Blackman in consultation with appropriate members of the Chemistry Departments of Y.C., S.C.W. and B.G.S.S. In addition the course content (including perhaps, polymer chemistry, surface chemistry, chemical economics, etc., etc.) will be determined as will the people on the faculty and those from the outside who will contribute. BGSS has several people who said they would contribute.

I look forward to hearing from Professor Blackman so we can work it out for one of the semesters of next academic year (1974-75).

MP/md

cc: Vice President Fishman
Deans Bacon, Komar, Mirsky
Prof. N. Remes

BELFER GRADUATE SCHOOL OF SCIENCE
YESHIVA UNIVERSITY

To:

Drs. J. Fishman, V.P.
Eli Levine, Yeshiva College
Nathaniel Remes, Stern
Martin Pomerantz, Belfer

Date:

March 21, 1974

From:

Dean Komar

Subject:

Organization of Chemistry at Yeshiva University

The first meeting of the Committee concerned with the organization of chemistry at Yeshiva University will be held in my office on Tuesday, April 2, at 3:30 P.M.

The agenda will include the following:

1) possibility of undergraduate instructional laboratories being relocated to the Belfer Building
2) programs of instruction
3) joint courses offerings

AK/md

cc: Dean Bacon
Dean Mirsky
E. Schwartz

Dean Isaac Bacon March 20, 1974

Martin Pomerantz
Chairman
Department of Chemistry

Mr. Edmund Schwartz, our Director of Laboratories, and myself are looking into the availability of space for part or all of the undergraduate chemistry laboratories in the Belfer Building. We hope to have the data on the available physical facilities at the meeting, being called by Dean Komar, of the Committee of Chemistry Department Chairmen to discuss the organization of chemistry at Yeshiva University. At that time we will get the appropriate input from Professors Levine and Remes as to the exact needs of undergraduate laboratories. We should then be in a position to make a final recommendation.

MP:hn

cc: Vice President Fishman
Dean A. Komar
Dean J. Rabinowitz
Professor E. Levine
Professor N. Remes
Mr. Edmund Schwartz

YESHIVA UNIVERSITY

Memorandum

From: Date: March 7, 1974

Joshua A. Fishman
Vice President for
Academic Affairs

To:

Dean Bacon, Dean Komar
and Dean Mirsky
Dr. Levine, Dr. Pomerantz
and Dr. Remes

Subject:

The organization of chemistry
at Yeshiva University

The purpose of this memorandum is to summarize the several meetings that I have had with the members of our various chemistry facilities since November, 1973 and to point the direction of future University-wide efforts in this area of instruction and research.

1. There is compelling University need, both curricular and fiscal, for greater integration and continuity of planning viz-a-viz instruction and research in chemistry. Over the period of the next 2-3 years this must be accomplished, at least to the extent that it already exists with respect to physics and mathematics, and will be the prime responsibility of a committee of which I will be chairman, Dean Komar will be executive secretary, and Doctors Levine, Pomertanz and Remez, or their alternates, will be members.

2. The first area of needed integration and continuity would seem to be that of greater sharing of facilities, equipment, and extra-curricular program. The University's resources must be allocated in such a way as to be

maximally useful and helpful to all of its chemistry faculty and students, rather than be disproportionately available only to those at the graduate level. Past problems in this connection must be avoided by a spirit of future sharing for the good of all.

3. The second (and admittedly more difficult) area of needed integration and continuity relates to current programs of instruction. Here our goal must be one of maximal inter-level joint-planning and implementation. Generally speaking, the permanent assignment of most faculty members to one and only one level of instruction is to be avoided, as is the retention or addition of faculty for whom only one level or area of instruction is possible. Faculty members assigned (newly or traditionally) to undergraduate instruction must be already to spend considerable time at the undergraduate campuses, in order to guide and encourage students, non-majors as well as (or even more so than) majors, and in order to more readily modify their courses, in the light of student needs, interests and abilities. Similarly, the work of teaching assistants must be constantly supervised and monitored so that it will be qualitatively high as well as integrated with that of lecture and recitation instructors. All in all, in moving to greater inter-level articulation of faculty and resources the least sensitive areas for such articulation (probably the more advanced undergraduate courses) must be located for early implementation, and the more sensitive ones: for implementation after due preparation and with built-in evaluation. All in all, however, articulation in this area (programs of instruction) is *not* to be subject to long term postponements and the 2-3 year target is to obtain here as elsewhere.

4. The third area of necessary articulation is that of ongoing curricular revision and overall improvement, both at the graduate and undergraduate levels. Here such needs as a fully operational BA-MA program (or a separate BA-MA program for pre-meds), a joint physical-chemistry lab course, joint bio-chemistry offerings, a joint instrumental analysis course, a joint pre-research seminar, a joint industrial chemistry course, special recitation

sections in mathematics, etc have been mentioned and should be further studied and implemented as rapidly as reasonable consensus and resources permit. In these connections, as well as in connection with the prior two areas, the relocation of particular labs, the use of a shuttle bus, the periodic re-assignment of faculty members to particular campuses, and the greater use of Belfer facilities for the instructional, lab and research needs of *all* students should be explored as alternative possibilities with respect to reaching a single overall goal: the maximal articulation of our human and physical resources for improved educational and scholarly achievements across administrative lines and levels.

Upon your receipt of this memorandum, Dean Komar is authorized to convene The Committee in order to begin immediate planning for 1974-75 in the three areas indicated above.

/s/ Joshua A. Fishman

BELFER GRADUATE SCHOOL OF SCIENCE
YESHIVA UNIVERSITY

To:
Dr. Joshua Fishman
Vice President

Date:
May 3, 1974

From:
Professor Martin Pomerantz
Chairman
Department of Chemistry

Subject:
New York State
Education Department
Evaluation

As we discussed I am enclosing two copies of the written correspondence and memos concerning closer cooperation and ultimate merger of the various chemistry departments and offerings at Yeshiva University.

At the present rate of spending we can have 13 faculty which includes 12 at the main campus and one at SCW who would have a slightly higher teaching load than the other 12 but would oversee the program at SCW. I don't think there can be any sort of reasonable program (even 3 years of chemistry) without someone who is there full-time and is committed to the SCW program. I don't believe the area of specialization for this person is critical but I presently see an organic chemist filling this role. Since the plan involves a few faculty from the main campus teaching courses at SCW, and still doing meaningful research, often laboratory research, at the main campus the only way for this program to function efficiently is by instituting a bus service between campuses. This is also necessary if the SCW students are to take any courses at the main campus. Once again, the faculty distribution will be: 4 physical chemists, 4 organic chemists, 2 inorganic chemists, one analytical chemist, one biochemist and one (organic) at Stern College.

In addition I foresee a need for about 16 teaching assistants and this too is well within the framework of the current chemistry faculty expenditures.

We presently have on hand the equivalent of 14½ full-time faculty. Of this number eight are tenured and are not retiring within the next 3-5 years. Thus we must replace five people within the next 5 years. This will allow us to have a diverse faculty encompassing all of the major chemical disciplines and to allow us to have a sufficient number of faculty to have a viable program. We plan to add people at the junior level of high quality both in teaching and research and who will be able to attract outside sources of support for their research. We will keep a balance of tenured and non-tenured people and only the best people will be promoted into a tenure positions.

It should be emphasized that unlike other departments we do not have an overabundance of mediocre faculty who are many years from retirement. We are in the unique position of starting with a rather good faculty and being able to have it grow into a strong department because of retirements and dismissal of non-tenured faculty.

At present the various chemistry departments have access to the following University funded personnel either full-time within the departments or part-time within the College or School.

ca. 1-1½ Secretaries (the approximate chemistry share of those in secretarial pools)

Stockroom attendant (Y.C. Chem. Dept.)

Man in charge of chemistry laboratories (Y.C. Chem. Dept.)

Electronics Engineer (part-time, within BGSS)

Shipping-Receiving-General Repair (part-time, within BGSS)

Duplicating room attendant (part-time, within BGSS)

These people should be available to a single department and in addition the half-time stockroom attendant and secretarial facilities at SCW will be retained.

The University also now collects about $15,000 in chemistry laboratory fees and this coupled with the equivalent

of ½ of a faculty salary (about $8,000-10,000, as outlined on the enclosed memos) would allow the single department to have sufficient funds for undergraduate laboratories including the upgrading of the experiments, the purchase of some new equipment for these laboratories each year, for the repair of damaged instruments and for general consumable supplies.

The total expenditures described here are essentially those currently, except that now there is much fragmentation and duplication in several departments which will be eliminated. In addition, not only would this plan allow us the assistantships with which to attract good students but a single department would undoubtedly allow us to keep a few of our very good undergraduates.

I would also like to point out a few obvious additional factual errors of considerably less import than that described above.

While the number of full-time students indicated in the report is 4 the actual number of students working toward their degrees full-time is 7. The difference being that the maintenance of status category of registration is used by students who have completed all the course and research credit requirements but have not actually completed their thesis research.

The report talks about two "theoretical type chemists (trained as physicists)" the implication being that they are strictly theorists. In fact both have experimental programs, one in magnetic resonance and critical phenomena and the other in main group organometallic chemistry.

The report also implies that the chemistry department was not of the quality to be rated in the latest ACE-Roose-Anderson Report (1969). In fact we were not rated because we had not graduated any Ph.D.'s prior to 1969.

MP:hn

enc.

EMPLOYER'S EXHIBIT NO. 13

May 14, 1974

Dr. Dorothy G. Harrison
Director
Office of Doctoral Project
The University of the State of New York
The State Education Department
99 Washington Street
Albany, New York 12210

Dear Dr. Harrison:

In reply to your kind letter of May 9, 1974, I am happy to indicate my general support and approval of the communications you have recently received from our Vice President for Academic Affairs, Dr. Joshua A. Fishman, and from the Chairman of our (graduate) Chemistry Department, Dr. Martin Pomerantz. Both of these gentlemen have had my encouragement to work with the various chemistry faculties at the University (and, have done so for half a year) in order to outline a joint plan of future operations. The resulting plan, a copy of which Dr. Pomerantz has sent to you, is calculated to build up our entire chemistry program at Yeshiva University, and thereby to resolve exactly those problems to which the visiting committee pointed.

The reallocation and coordination of University resources in chemistry which the above plan calls for (and which we have already begun to implement) should not only result in a unified University-department of chemistry but, also, in more faculty available for graduate instruction as well as funds for more students, supplies, etc. Thus, in closing, I can assure you that it is our hope and intent to redress the weaknesses in our current graduate level chemistry efforts and I do want to thank you,

the visiting committee and the rating committee for your help and guidance in this connection.

Sincerely yours,

Samuel Belkin
President

EMPLOYER'S EXHIBIT NO. 15

February 5, 1974

Professor Joshua A. Fishman
Vice President for Academic Affairs
Yeshiva University
500 West 135 Street
New York, New York 10033

Dear Professor Fishman,

I have been asked to write to you as chairman of the Department of Psychology to present the consensus of the Department in regard to moving to the Main Center. The department, including at least one member on leave (Dr. Anisfeld), strongly favors moving to the Main Center. We are aware of certain inconveniences in connection with the location, and of certain problems in the community, however, the advantages of a move far outweigh such disadvantages. Let me outline the scope of our thinking on the matter.

We are aware that part of the impetus for a move is to save money for the University—by utilizing an existing modern building which has vacant space. We feel that we are not in a position to estimate the cost savings involved, but can imagine them to be considerable. Our thinking goes beyond such savings and foresees even greater gains. This thinking is based on the known fact that graduate programs must have strong undergraduate bases. Our undergraduate programs have been as adversely affected by the budgetary crisis as have the graduate programs if not more so, and the situation in psychology, which we are competent to assess is critical. We still have a good graduate department despite the budgetary inroads that have been made on our strength—and our staff members have maintained a strong interest in preserving what we have, although as the months pass we have good reasons for pessimism.

We have long held the view that we must have a base in the undergraduate unit of our university—they need us

and we not only need but welcome them—however, we have, to date, not been able to put this point across, except on an informal and piecemeal basis, and so far for the wrong reasons. Whatever the history there is a mutual respect between the deans of Yeshiva College and Stern College and the department—several of our staff have taught courses at both colleges and we have recently arranged a BA-MA program with Yeshiva College.

What is needed is closer ties and working relationships—that the proposed move would make possible and faster. It would result in financial gains that could strengthen all of the programs in values and permit growth at lower cost.

We favor the move because it would bring us closer to our colleagues at the Belfer Graduate School and to better shop, laboratory and computer facilities. It would also move us closer to the Albert Einstein College of Medicine and open greater possibility for clinical training facilities at the college as well as to participation by psychologists on their staff in our scholarly affairs and activities.

Other advantages to a move would be to bring us close to a population of undergraduate students who might be tapped for participation as subjects in research—and at the same time benefit them by the experience of such participation.

In addition, offerings of specific social, experimental, and other courses would strengthen the undergraduate program by making additional faculty interests available to them.

Both the clinical and social programs could take roles in providing needed community services as well as making available clinic facilities to undergraduate students. This in turn would permit us to plan professional degree programs at the sub-doctoral and doctoral levels that have relevance to the community and are in line with changes in programmatic emphases taking place on a national level.

It is possible that we might lose some applicants particularly in social and experimental for a time. Faculty activities could in part be offset by undergraduate teaching and the developing BA-MA programs. In the long run these programs would gain by the improved facilities that would be available. The clinical program has so many applicants and there are so few programs that the move is unlikely to interfere with the quality of accepted applicants. However, a new professional degree program in clinical psychology could be developed particularly since the move would lead to greater financial strength.

To summarize our position:

1. In general we have identified certain distinct advantages to a move that would lead to savings—but more importantly would enable us to be closer to students and faculty colleagues in a way that would integrate us in a number of positive ways with undergraduate programs and thus result in even greater gains than just a money saving move to utilize a building.
2. We hope that part of such a move might lead to the establishment of an all-university integration of psychology programs at the undergraduate, sub-doctoral, and graduate level.
3. We look forward to the availability of better facilities—library, laboratories and computer facilities.
4. We do not minimize certain dislocations that might occur—such as problems of safety in the community, unhappiness on the part of some of our present students and possible dislocation having to do with local training facilities. However, while such problems are real, they are far outweighed by the potentially greater advantages entailed in combining resources and permitting our de-

partment to take a leadership position in broadening our base at the University.

Respectfully submitted,

Department of Psychology
Ferkauf Graduate School of Humanities
and Social Sciences

Norman B. Gordon, Chairman
For the Department of Psychology

r.

cc: Dean J. B. Gittler

EMPLOYER'S EXHIBIT No. 16

Dean Joseph B. Gittler — February 7, 1974

Department of Psychology — Moving to Main Center

We are aware that other departments have written to you regarding their feelings about moving to the Main Center. This memorandum is intended to acquaint you with our views on the matter. This represents the concensus of the department. In addition Dr. Anisfeld has written from Israel that he favors such a move.

In addition to the potential cost savings to the University we would like to make the following points:

1. Offerings of specific social, experimental and other courses would strengthen the undergraduate programs by making additional faculty interests available to them.
2. The B.A.-M.A. programs recently initiated would be strengthened by the proximity of the undergraduate and graduate faculties involved.
3. All programs would be strengthened by the bringing of colleagues closer with mutual interests at Yeshiva College, The Belfer Graduate School of Science, and the Albert Einstein College of Medicine. In particular this could mean the strengthening of the scholarly resources; the closer proximity to improved library, shop and computer facilities; and the greater possibility for clinical training facilities at the College of Medicine.
4. A move would bring us closer to a population of undergraduate students who could serve as participants in research, with benefit to them as well as to us.
5. Both the social and clinical programs could take roles in providing needed community services as well as making available clinic facilities to undergraduate students.
6. Uptown the clinic could be of service to the general community desperately lacking in mental health services. This could be important to the community as well as for graduate students, who should have experience with a

broader group of people than is presently available to them in our present location.

7. The possibility of using Albert Einstein facilities, personnel and clinics for training experiences would have enormous advantages in a professional program. We could potentially increase enrollment with little need for additional faculty.

8. A new professional degree program in clinical psychology could be developed given the advantages indicated above.

9. Graduate professors would be more available for undergraduate teaching.

Naturally we would continue to need clinic, shop and research facilities such as are now provided. We have predicated all of the above on the assumption that a strong psychology department is important to the University and that the requisite support will be made available. This memo indicates strong reasons why a move uptown would be advantageous. Questions of inter-relatedness of this department to other departments have not been discussed here, even though they are of great importance in any final decision. We would be very interested in being included in any planning for a move.

A copy of this memorandum has been forwarded to Vice President Fishman to acquaint him with out views.

Respectfully,

Norman B. Gordon for the
Department of Psychology

cc: Vice President Joshua A. Fishman

YESHIVA UNIVERSITY

EMPLOYER'S EXHIBIT No. 17

To:

Deans Bacon, Gittler, (Jaffe) Mirsky

Date:

April 16, 1974

From:

J. A. Fishman

Subject:

University-wide articulation of psychology programs

I would appreciate your naming a representative (normally the chairman and or director) of each of your psychology programs to attend a meeting for the purpose of furthering university-wide articulation of psychology programs. My secretary will call the individuals designated in order to find the best date and time early in May for this meeting.

/s/ Joshua A. Fishman
JOSHUA A. FISHMAN

YESHIVA UNIVERSITY

To: Pres. S. Belkin
Vice President S. Socol

Date: May 6, 1974

From:

Subject: Committee on the University-wide Articulation of Psychology

The first meeting of the above mentioned Committee took place today with

Prof. L. Zach (FGS: School of Educ. Psychol.)
Prof. N. Gordon (FGS: Experimental & Social Psychol.)
Prof H. Adler (YC) and
Prof. F. Pine (AECOM)

present. At future meetings the following are also expected at attend:

Prof. M. Eagle (FGS: Clinical Psych.)
Prof. I. Belmont (SCW as of Sept. 1974)

Profs. Zach and Gordon will serve as co-chairpersons of the Committee, the next meeting being scheduled for May 23 at 5 p.m. (at FGS). The Committee's charge is identical to that previously given to the Chemistry and Education committees and its target date for devising a 3-5 year projection for Psychology at YC is December, 1974.

/s/ Joshua A. Fishman
JOSHUA A. FISHMAN

cc: Deans Gittler, Mirsky,
Bacon and Jaffe

YESHIVA UNIVERSITY

EMPLOYER'S EXHIBIT No. 18

To: Deans and Directors

Date: November 6, 1973

From: Dr. Joshua A. Fishman

Subject: Consolidation of Graduate and Undergraduate Campuses

In order to safeguard and strengthen the viability and growth of Yeshiva University in these most difficult times, President Belkin has asked me to communicate to you his decision, in principle, to consolidate at the current Main Campus the academic work currently being conducted by Yeshiva College, the Bernard Revel Graduate School, the Belfer Graduate School of Sciences, the Ferkauf Graduate School and the Wurzweiler School of Social Work. This step, pertaining to a move that has been suggested and considered informally in the past, is being turned to now for extremely compelling reasons and, obviously, requires our wholehearted consideration and full support for its successful implementation.

Since the consolidation of much of the graduate and undergraduate work of the University at one campus is a crucial opportunity for many of our academic programs and purposes, it is my hope that you, your faculty and students will now enter into the joint planning that is so necessary if this step is to be as beneficial as possible for all concerned. We must begin to plan for the new office space, classroom space, study space, recreation space, research space, library and cafeteria space, parking space and for the new student-faculty services and recruitment possibilities that a consolidation at the Main Campus implies. In addition, there should be many new opportunities for innovation and cross-fertilization of programs and these, too, should begin to be examined without delay. A number of planning committees will need to be appointed, some of them within schools and some

of them between schools, to deal with matters such as the foregoing, which can be grouped under four broader rubrics: (a) planning academic facilities, (b) planning student and faculty services, (c) planning general academic work and activities, (d) planning Jewish academic work and activities. Your recommendations as to which sub-committees are needed in each of these broad areas, and who (faculty and/or students) from your school should serve on the broader committees as well as on their subcommittees, will be earnestly requested in the immediate future.

Over the years the University has suffered from the fact that its resources in faculty, students, administrators, library holdings and in research and training facilities were so scattered that none could benefit from the total strengths that were and are there. In many cases, as a result, a consolidation of effort and resources was suggested by individual faculty members and administrators within the University, as well as my outside evaluation and accreditation groups. Therefore, it is all the more my hope that a forthcoming consolidation at the main campus will be grasped as the real opportunity that it is for maintaining and strengthening our work in ever so many ways that might otherwise have been impossible. The fuller integration of knowledge and of commitment to what Yeshiva University stands for and to what the very term "University" itself implies now comes into sight in a more attainable sense than ever before.

I ask for your help, and for that of your faculty and students, in realizing the opportunities that this move represents, as well as in anticipating the problems that it poses, so that we may begin to plan very meticulously to maximize the former and to minimize the latter during the months ahead.

/s/ Joshua A. Fishman
JOSHUA A. FISHMAN

JAF-em

EMPLOYER'S EXHIBIT No. 19

YESHIVA UNIVERSITY

MEMBERS OF THE COMMITTEE FOR A BA/MA IN EDUCATION:

Dr. Julian Roberts (F)

Dr. A. Jablonsky (F)

Dr. Koenigsberg (S)

Dr. Fleisher (YC)

Meeting for the first time at Ferkauf, November 9, at 10 A.M. in room 1532.

Minutes of Meeting of Sub-Committee on University Bachelor's-Masters Programs

Present: Drs. S. Koenigsberg, Stern College; D. Fleisher, Yeshiva College; Adelaide Jablonsky, FGS; and J. Roberts, FGS. (Dean Bacon not present)

A meeting of the above mentioned group was held at FGS-Room 1533 on Thursday November 9, 1973 at 10 A.M. at the request of Dean Isaac Bacon. In Dean Bacon's absence, Dr. Roberts chaired the meeting.

A. The early part of the meeting centered on a presentation of the general standards to be set for establishing University Bachelor/Masters programs via cooperation between undergraduate and graduate divisions of Yeshiva University.

1. It was agreed that students must have an overall average of 3.0 to be considered for admission to a Bachelor/Masters program; it was further agreed that a 3.0 average in the student's major area of study would also be required.

2. An applicant must be recommended by the undergraduate division and must also be interviewed by the appropriate graduate department to ascertain meeting of all requirements for graduate admission.

3. Some present courses may be designated as open to undergraduate and graduate students, and these could be used to meet requirements for both the bachelor's and master's degree. Thus in a 36 credit graduate program at FGS, a student could earn 12 credits during the upper junior through the senior year at the undergraduate division by taking such courses at FGS, and complete his graduate program by taking an additional 24 credits at FGS during the fifth year (graduate year).

B. The discussion then centered on the Secondary English Major program that prepares students for certification to teach English in grades 7-12. Stern College has already agreed upon such a program. It was understood that applicants for this Bachelor/Masters program had to have completed 18 credits in English and Speech courses prior to admission. Dr. Roberts indicated that there were a limited number of secondary school apprenticeships open for the coming Spring 1973 semester. Applicants for apprenticeship must have 6-9 credits of appropriate course work in Educational Foundations and Educational and Developmental Psychology. Yeshiva College will look into the matter of such a joint program since it seemed very likely that the English Department of YC could cooperate with the FGS department of Curriculum and Instruction on such a program to the mutual benefit of students of YC and FGS. Dr. Fleisher is investigating this matter further.

C. The Elementary education Bachelor/Masters program between Stern College and FGS is still in the process of negotiation. Dr. Koenigsberg and Dr. Jablonsky will continue to work on this program arrangement. The meeting was adjourned at 11:30 A.M.

EMPLOYER'S EXHIBIT No. 20

FERKAUF GRADUATE SCHOOL
OF HUMANITIES AND SOCIAL SCIENCES
YESHIVA UNIVERSITY

Date: 2-22-74

To: Profs. D. Fleisher, YC
B. Fowles, FGS
V. Horner, FGS
L. Keating, YC
I. Linn, YC
J. Roberts, FGS
P. Schramm, SCW

From: Dean Gittler

First I wish to thank you for your contribution to the meeting exploring the continuation or revision of the master's program in Communications at Ferkauf Graduate School.

In accordance with our decisions, I am asking the following to constitute the subcommittee:

V. Horner, FGS—chairman
B. Fowles, FGS
P. Schramm, SCW
L. Keating, YC
J. B. Gittler—ex officio

1. The subcommittee will work up a draft of courses and other requisites for a master's degree in Communications.

2. The master's program in Communications should have a basic frame of reference and a specific focus and locus.

3. It is probable that a program with a specific frame of reference and set of objectives would need a set of core courses followed by specialized courses and electives.

4. The total number of required credits for a master's degree should total between 30 and 36 credits.

5. The degree should require a comprehensive examination and/or a master's thesis. I would recommend that

the committee give very serious thought to the possibilities of not having a thesis.

6. I am asking Dr. Horner to convene the subcommittee.

7. When the draft is completed, Dr. Gittler will reconvene the whole committee. If the committee approves the draft (revisions and changes will, of course, be possible), recommendation will go to the following bodies:

a. FGS Curriculum Committee

b. Graduate Council

c. Executive Council

8. It is understood that the subcommittee will explore the extant resources in the University. This can also be done by a questionnaire to relevant faculty and listings in the various catalogs of the schools at YU.

cc Dr. Fishman

EMPLOYER'S EXHIBIT NO. 21

FERKAUF GRADUATE SCHOOL
OF HUMANITIES AND SOCIAL SCIENCES
YESHIVA UNIVERSITY

To: Members of the University Committee
on Graduate Programs in Statistics

From: Dean J. B. Gittler Date: February 4, 1974

1. A meeting of the Committee was held on Jan. 31, 10:00 a.m., at the Ferkauf Graduate School. Dean Gittler of FGS chaired the meeting.

2. 14 faculty persons were present from Ferkauf Graduate School, Belfer, AECOM, Stern, Wurzweiler.

3. I believe we reached the following consensus:

   a. A doctoral program in mathematical statistics is not feasible.

   b. A master's program in math. statistics is feasible.

   c. A doctoral program in applied statistics is feasible.

   d. The master's program, or part of it, in math. statistics can constitute the core curriculum for the doctorate in applied statistics.

   e. Dean Gittler appointed a sub-committee to:

      1. Draft a curriculum for a master's in math. statistics

      2. Draft a curriculum for a doctorate in applied statistics

   f. Members of the sub-committee are:

      Profs. Berger (temporary chairman), Coburn, Harris, Auerbach, Landowitz, Wassertheil.

   g. The sub-committee will poll the committee members for desired information thru Dean Gittler's office.

h. The sub-committe will submit its proposals to Dean Gittler. Dean Gittler will convene the total committee for discussion of the proposals.

cc Dr. Fishman

bb

EMPLOYER'S EXHIBIT 22-A

YESHIVA UNIVERSITY

UNDERGRADUATE CATALOGUE 1974-76

WHERE TO SECURE INFORMATION

Except as indicated, officers listed below are located at Yeshiva University, 500 West 185th Street, New York, N.Y. 10033, (212) 568-8400.

Heads of undergraduate schools for men are Dean, Yeshiva College; Dean, Erna Michael College of Hebraic Studies; and Director, James Striar School of General Jewish Studies.

Heads of undergraduate schools for women are Dean, Stern College for Women, and Director, Teachers Institute for Women, both at Yeshiva University, 245 Lexington Avenue, New York, N.Y. 10016, (212) 255-5600.

The Director of Development and the Counsel are located at Yeshiva University, 55 Fifth Avenue, New York, N.Y. 10003, (212) 255-5820.

General Interests
The President

General academic policy
Head of each school

Admission, catalogs
Director of Admissions

Student finances, scholarships, loans
Director of Student Finances

Records, transcripts, calendar
Registrar

Student welfare and activities
Vice President for Student Affairs

General information
Director of Public Relations

Gifts
Director of Development

Bequests
Counsel

YESHIVA UNIVERSITY

For Men—Main Center: 500 West 185th Street, New York, N.Y. 10033

Yeshiva College • Erna Michael College of Hebraic Studies • James Striar School of General Jewish Studies

For Women—Midtown Center: 245 Lexington Avenue, New York, N.Y. 10016

Stern College for Women • Teachers Institute for Women

UNDERGRADUATE CATALOG 1974-76

CONTENTS

	Page
Yeshiva University	4
Background	5
Admission	6
Student Finances	13
Student Welfare and Activities	18
University Regulations	24
General Academic Information	28
Yeshiva College	31
Yeshiva Program	65
Erna Michael College of Hebraic Studies	67
James Striar School of General Jewish Studies	83
Stern College for Women	91
Teachers Institute for Women	115
Awards and Honors	124
Directory	128
Board of Trustees	129
University Administration	129
Undergraduate Faculties	130
Other Administrators	135
Index	136
Gifts and Bequests	140

About This Catalog

Regulations in this Catalog and other official statements of the University are binding on all students. The University reserves the right to change tuition, fees, regulations, and graduation requirements at any time without prior notice.

This Catalog pertains only to the University's undergraduate schools. It will be useful as a source of continuing reference and should be carefully saved, since the demand for replacement copies causes expenditures which should more directly serve the student's education. For general information on Yeshiva University, consult the Bulletin of General Information, available from the Director of Admissions.

Calendar

Yeshiva University operates on the semester system. The school year is July 1-June 30. The academic year consists of two semesters, each at least 15 weeks including examinations; the fall term generally runs from early September to mid-January, and the spring term from early February to early June. There is no regular undergraduate summer session. A detailed academic calendar is available upon request from the Office of the Registrar.

YESHIVA UNIVERSITY

Yeshiva University is a private institution under Jewish auspices chartered by the State of New York; it is accredited by the Middle States Association of Colleges and Secondary Schools and by specialized professional agencies and is a member of the College Entrance Examination Board. It offers programs leading to associate's, bachelor's, master's, and doctoral degrees.

In addition to its extensive teaching programs, the University conducts a network of affiliates, a widespread program of research, community service agencies, and a museum, and publishes several scholarly journals.

Yeshiva University traces its origins to Yeshiva Eitz Chaim, founded in 1886 on New York's Lower East Side. Ten years later the Rabbi Isaac Elchanan Tehological Seminary was founded there, and in 1915 the two schools merged under the name of the latter.

Under the dynamic leadership of Dr. Bernard Revel, who served as president from 1915 until his death in 1940, the institution embarked on a plan of educational development and growth. In 1929 the institution moved to its present Main Center in Manhattan's Washington Heights. Liberal arts programs began with the establishment of Yeshiva College in 1928, and the first graduate curriculum was introduced in 1935.

The election of Dr. Samuel Belkin as president in 1943 inaugurated a new era of expansion. University status was granted two years later by the New York State Board of Regents. The institution initiated programs of professional education, research, and special projects to advance the well-being of many constituencies. In 1954 a college of liberal arts and sciences for women was founded and, in more recent years, graduate schools of science, medicine, social work, and humanities and social sciences.

The University's five undergraduate schools and seven gradaute schools are located in Manhattan (Main Center, Washington Heights; Midtown Center, 245 Lexington Avenue; Graduate Center, 55 Fifth Avenue) and the Bronx (Eastchester Road and Morris Park Avenue). The Main, Midtown, and Bronx Centers have dormitory and dining facilities. Each school is so conducted as to assure friendly, informal, and educationally sound relationships between students and faculty. All units thus retain the character and virtues of small institutions.

The Mendel Gottesman Library at the Main Center is a $5,000,000, six-story, block-long central university library with a capacity of 500,000 volumes. Components include the Pollack Undergraduate Library, Mendel Gottesman Library of Hebraica-Judaica, Archives, and Rare Book and Manuscript Room. The Midtown Center Library

strengthens undergraduate academic programs there. In addition there are three libraries which serve the special needs of the graduate schools: Belfer Graduate School of Science Library, Graduate Center Library, and D. Samuel Gottesman Library of Albert Einstein College of Medicine.

Its present programs and plans for the future reflect Yeshiva University's ever-growing concern with America's most pressing needs. For more than eight decades the University has taken a position of leadership in higher education, serving the community and the nation as a whole.

ADMISSION

Admission

Admission regulations uniformly applicable to all undergraduate schools are given here; those pertaining to one school alone are given in that school's section of this Cataolg. Applicants should consult both sections.

Under the admission policy of the University there is no discrimination in regard to sex, religion, age, race, color, or national origin.

Applications

WHERE TO APPLY

All correspondence on matters of admission should be addressed to the Office of Admissions, Yeshiva University, 500 West 185th Street, New York, N.Y. 10033.

HOW TO APPLY

Candidates for admission must file an application form available from the Office of Admissions. They must arrange to have a transcript of their high school record and their scores on the required College Entrance. Examination Board (CEEB) tests forwarded to this office. Applicants are required to report for an interview at the University or with its representative in their vicinity.

WHEN TO APPLY

Candidates may apply any time after completion of their junior year of high school, but not later than April 15 of the senior year, for admission in the September following their graduation. No regular freshman class is admitted in February; however, applicants are considered on an individual basis.

Requirements

Of primary importance in determining a student's qualifications for admission are the high school scholastic record, CEEB scores, and results of statewide tests such as the New York State Regents Examinations.

The Committee on Admissions also considers the applicant's character, personality, and contributions to school life.

AVERAGE

To qualify for admission a candidate must present a high school average of B or its equivalent. If the college recommendation grade of the high school from which the student comes is higher than B, the student must meet that grade. The above average is the weighted average, which includes Regents grades in New York State.

The Committee on Admissions may require higher averages from students who come from schools whose academic standards are not known to the committee or are believed to be low.

COLLEGE BOARDS

All applicants [1] must take tests given by the CEEB. The results of these tests supplement the high school grades in determining admission, and are also used for placement and guidance. Required tests are:

1. Scholastic Aptitude Test.

[1] Foreign students should see FOREIGN APPLICANTS, page 11.

2. Hebrew Achievement Test (given only in December), if the student has attended a Jewish high school or has studied Hebrew in high school.

   Students who are interested in receiving advanced placement or advanced standing in any subject should take the appropriate achievement test (see *Exemption Examinations*, page 10).

The tests are given at various locations and at various times throughout the year. It is recommended that applicants take the Scholastic Aptitude Test in November or December, and the Hebrew Achievement Test in December. Although these tests are normally given on Saturday, Sabbath-observing students may take them on Sunday in those months. Those who live in or near New York are requested to take the tests at the University. Full information is available from the Office of Admissions.

Bulletins and applications can be obtained by writing to:

College Entrance Examination Board
Box 592
Princeton, New Jersey 08540

(Students who live in the Western states should write instead to Box 1025, Berkeley, California 94701.)

Canadian students may submit scores earned on the Verbal and Mathematical sections of the Canadian Scholastic Aptitude Test. For information, write to:

Service for Admission to
College and University
151 Slater Street
Ottawa, Ontario, K 1P 5N1

UNITS

Applicants must be graduates of an academic high school. They must present 16 units of secondary school work in college preparatory subjects. (To earn one unit a student must attend classes in a major subject 180 forty-minute periods per school year; a half unit is given for

the same amount of work in a minor subject, i.e., one not requiring preparation.)

In New York State a Regents Examination must be taken in every subject offered for admission credit if the high school gives such an examination.

CONDITIONS

High school graduates presenting 16 units of work but lacking one of the specific courses required may be admitted on a conditional basis. Such students must satisfy the condition by the end of the first year to be eligible to return for the sophomore year. (Exceptions may be made to this rule for foreign students entering with a condition in American History.) The regulations concerning admission with conditions are available on request from the Office of Admissions.

Notification of Admission Decision

REGULAR ADMISSION

Candidates are notified of the action taken on their application after they have completed all requirements for admission as stated above and their files have been reviewed by the Committee on Admissions.

EARLY DECISION PLAN

Under the Early Decision Plan superior students may be admitted on the basis of their record through the junior year, provided that they also score above average on the Scholastic Aptitude Test of the CEEB. Students desiring an early decision should take the Scholastic Aptitude Test in their junior year; file applications in September of their senior year; and file to take the achievement tests in December of their senior year. Students will be advised of their acceptability in November of the senior year.

Applicants Who Are Not High School Graduates

EARLY ADMISSION PROGRAM

To qualify for Early Admission the applicant must complete the junior year of high school, with a minimum of six regular academic-year terms in residence. He must complete 15 units including the following 10:

English	3
Additional Language [1]	2
Social Studies [2]	2
Mathematics	2
Science [1]	1

The applicant must present a high school average of A or its equivalent and a minimum score of 600 on each section of the Scholastic Aptitude Test.

An interview with a member of the Committee on Early Admission is required. Two letters of recommendation are requested from the applicant's high school: one from the guidance counselor or principal, another from an instructor of a major academic subject.

COLLEGE COURSES FOR HIGH SCHOOL STUDENTS

High school upperclassmen with superior records are permitted to take undergraduate courses at Yeshiva University for which they can later receive college credit if they do not use the courses to meet high school requirements. Students of high attainment and superior preparation who are interested in such courses should fill out Form P3H, available from the Office of the Registrar.

HIGH SCHOOL EQUIVALENCY

Applicants who are not high school graduates (or foreign applicants who do not have the equivalent diploma or cannot produce records) may be admitted if, in addition

---

[1] Students applying as science majors must present at least 2 units of science but, at the discretion of the Committee on Early Admission, may offer only 1 unit of an additional language.

[2] Students who have not taken American History in high school must complete it in their first year of study at college.

to performing well on the CEEB tests, they pass the High School Equivalency Examination administered by New York State (commonly called the "GED test"). While the passing mark is a 45 average, the minimum required for admission to Yeshiva University is 50, with a minimum of 35 on each test.

Full details about the GED test may be secured from any high school in New York or, in other states, from the department of education.

A diploma from a correspondence school is not acceptable for admission purposes. Students with such diplomas are required to pass the GED test, as described above.

Admission With Advanced Standing

All transfer of credit and advanced standing is subject to the regulations dealing with residence requirements given on pages 34, 69, 70, 71, 84, 93, 94, and 116.

ADVANCED PLACEMENT PROGRAM (APP)

Freshmen of high attainments and superior secondary school preparation may qualify for advanced placement. The purpose of this program is to encourage superior students to use their college years to best advantage by allowing them to avoid repetition of work covered in secondary school. The time saved in this manner is available for achieving a broader general education or a more intensive study of the major.

Students who have had college-level courses in high school are urged to take the Advanced Placement Examinations of the CEEB, which are given in the following subjects: American history, biology, chemistry, English, European history, French, German, Latin, mathematics, physics, Spanish. Grades on these tests are reported on a five-point scale; 1 indicates failure and 5, high honors. An applicant who receives a grade of 3 or higher may be exempted from the equivalent course at Yeshiva University. The exemption may be granted on the condition that the student take an advanced course at Yeshiva University in the same subject. If a student has achieved

a score of 4 or higher, he will receive college credit equal to the credit value of the Yeshiva University course whose equivalent the student has completed, provided that this equivalent course was not used to meet requirements for graduation from high school. Regardless of how much advanced standing a student is granted on the basis of examinations, he must meet the minimum residence requirements of his school to be eligible for a degree.

APP examinations are administered during the second week of May at centers throughout the country. Students who wish to take them must register not later than the first week of April. Application blanks and copies of the Bulletin of Information may be obtained by writing to Advanced Placement Examinations, College Entrance Examination Board, at the address given on page 8.

COLLEGE-LEVEL EXAMINATION PROGRAM (CLEP)

Students no longer in high school who have gained knowledge of college-level subjects outside the classroom through correspondence study, television courses, on-the-job training, self-study, or other means may be granted college credit or advanced placement if they can demonstrate their achievement on the tests of the College-Level Examination Program of the CEEB. Currently examinations are given in 27 different subjects. Pertinent regulations may be secured from the Office of the Registrar. For further information about these tests, write to College-Level Examination Program, College Entrance Examination Board, at the address given on page 8.

COLLEGE PROFICIENCY EXAMINATION PROGRAM (CPEP)

College credit and advanced placement may also be given to students who perform well in a program similar to CLEP which is administered by New York and is open to state residents.

An applicant who scores C will be exempted *without credit* from the equivalent courses at Yeshiva Univer-

sity. An applicant scoring B or better will receive credit. For further information about this program, write to:

College Proficiency Examination Program
New York State Education Department
Albany, New York 12224

EXEMPTION EXAMINATIONS

College credit on the basis of examinations is granted only for the Advanced Placement Program, College-Level Examination Program, and College Proficiency Examination Program, described above. Where such examinations are not available, a student may be excused *without credit* from a basic course taught at the University on the basis of a written examination prepared by the department. A student who wishes to take such an examination should apply at least three weeks in advance on Form R28, available in the Office of the Registrar. Certain departments also require a high score on the appropriate CEEB achievement test (see *College Boards*, page 7).

TRANSFER STUDENTS

Applicants who have attended another college must satisfy the same requirements as applicants who come directly from high school.

While the University is pleased to encourage the competent applicant who has valid and legitimate reasons for transferring to Yeshiva University, it cannot encourage an applicant with a history of academic or personal difficulty. University admissions policy restricts consideration for transfer to those students with satisfactory academic and personal records. In the event of academic or personal difficulty, a student is usually better advised to remain in his present college and clear his record before attempting to transfer.

Students who wish transfer credit for courses taken at other institutions must file official transcripts of record with the Office of the Registrar no later than two months after beginning their studies at Yeshiva University or

two months after completion of the courses, whichever is later. (See also *Outside and Summer Work*, page 26).

No credit may be transferred if the course grade is below C; or if the subject is technical or commercial or in any way not ordinarily classified as liberal arts; or if the course is more than 10 years old. Transfer credits may be revoked, either in whole or in part, if subsequent work, either generally or in a particular subject, is not satisfactory.

The maximum credit per semester that may be transferred is 18 if taken at one institution, and 20 if taken at two institutions simultaneuosly. A maximum of 32 credits in Jewish Studies, not exceeding 8 a semester, may be transferred from a nondegree program in Israel; a maximum of 12, not exceeding 3 a semester, may be transferred if taken in an American nondegree-granting institution. Transfer of credit is subject to several limitations and restrictions. Further details are given in Form A25, available from the Office of Admissions.

Courses transferred from another institution, whether taken before or after admission to Yeshiva University, appear on the student's record with credit value only; grades earned elsewhere are not entered on the records of Yeshiva University.

VETERANS

A veteran honorably discharged from the armed forces of the United States with service of at least one year may be granted 2 credits for completion of basic training and military service in lieu of Health Education 1-4. Veterans with at least two years of service may be allowed an additional 1 credit in lieu of Health Education 5;6. Also, veterans who pass an examination covering Health Education 9;10 will be allowed an additional 2 credits.

Credit for courses taken with the Armed Forces Institute is granted in accordance with the regulations of the State Education Department and with the recommendations of the American Council on Education.

Foreign Applicants

The records of all applicants who have attended foreign schools must be sent to the University evaluation authorities, who will decide whether the records show work equivalent to the completion of an American high school program and whether advanced standing may be granted.

The procedure to be followed in such cases is given on Form A5.2, "Foreign Students and Admission to Yeshiva University," available on request from the Office of Admissions.

Canadian students should see page 8 for information on the Canadian Scholastic Aptitude Test. Students from Quebec should request Form A5.6 in addition to Form A5.2.

Applicants from non-English-speaking countries may be excused from taking part or all of the required series of CEEB examinations and may be allowed to take the Test of English as a Foreign Language (TOEFL). For permission to substitute the TOEFL for the CEEB series, applicants should write to the Office of Admissions. A bulletin and other information may be obtained by writing to:

Test of English as a Foreign Language
Educational Testing Service
Box 899
Princeton, New Jersey 08540

Students who are unable to take the TOEFL in their country should write to the Office of Admissions, which may permit the substitution of an alternate test.

CATEGORIES OF STUDENTS

Each admitted student is classified under one of the following categories. Not all schools admit under all categories.

Regular Students

Students admitted with permission to work toward degrees or diplomas are classified as Regular. A Regular student admitted with a condition must make up his condition within the time limit set by the Office of Admissions to maintain this status.

Provisional Students

Students admitted without meeting the full requirements for Regular status are classified as Provisional. If they later meet all requirements, they may be reclassified as Regular. However, they are bound by any changes in degree requirements made prior to their attainment of Regular status.

Transient Students

Applicants who wish to enroll only for certain courses to meet their particular needs at other institutions, without pursuing a regular program leading to a degree or diploma, may be admitted as Transient students, with the permission of their home school and the specific approval of the school to which they have applied. Normally students in this category may enroll for not more than a total of 9 credits.

Visiting Students

Students enrolled with Regular or Provisional status in one school of Yeshiva University may register for a limited number of courses at another school as Visiting students, with the permission of both schools.

Unclassified Students

Applicants whose records are not complete or have not yet been evaluated by the time of registration, but who seem to be qualified on the basis of the records available, may be allowed to register for courses as Unclassified students pending the filing or evaluation of their credentials. This status may be continued for a period not exceeding one semester. Such students enroll at their

own risk, are treated as Provisional students, and may be dropped at any time if their complete records are not acceptable or are not available.

Special Students

Applicants who give evidence of fitness by reason of maturity and previous training and demonstrate ability to maintain standards of progress, but do not qualify for admission under any of the categories listed above, may be admitted as Special students. No credit is allowed for work completed under this classification.

There is no category of "auditor." A student admitted under one of the above categories may be permitted to audit a class with the written permission of the instructor and the Dean or Director. Such a student does not participate in classwork and is not given examinations; he receives no grade and no record of his auditing is kept, so that no transcript can be issued nor any kind of credit or recognition given.

All students, regardless of their status, must meet all standards and comply with all regulations and requirements.

STUDENT FINANCES

Student Finances

TUITION AND FEES

Yeshiva College
Stern College for Women

Tuition	$2,250.00 per year
University Registration Fee	75.00 per year
Dormitory Rental	500.00 per year
Dormitory Registration Fee	20.00 year year
Maintenance of Registration Fee	20.00 per semester 35.00 per year
Locker Fee (Stern College only)	2.00 per year
Student Activities Fee	10.00 per year

Laboratory Fees	
Physics 1a,2a	5.00 per course, per semester
Biology, Other Physics Courses, Psychology	20.00 per course, per semester
Organic Chemistry	30.00 per course, per semester
All Other Chemistry Courses	25.00 per course, per semester
Computer Courses	50.00 per course, per semester
Change of Program Fee	5.00 for all changes made at one time
Late Registration Fee	5.00 per semester
Transcript of Record	2.00 each 5.00 each for rush service
Scholarship Application Fee	15.00
Graduation Fee	25.00
Makeup Examinations and Exemption Examinations	5.00 each

The laboratory fee includes the cost of consumable supplies and the normal wear and tear and usage cost on equipment. Students whose breakage exceeds the usual amount are charged for the excess.

Part-time Students

Part-time students taking up to 6 credits a semester are charged $75 a credit plus a $25 registration fee.

Erna Michael College for Hebraic Studies
James Striar School of General Jewish Studies
Yeshiva Program

Students concurrently registered at Yeshiva College receive full tuition scholarships at Erna Michael College, James Striar School, or in the Yeshiva Program.

Teachers Institute for Women

Tuition	
1-4 credits	$30.00 per credit, per semester
5 credits and over	25.00 per credit, per semester
University Registration Fee	10.00 per semseter
Late Registration Fee	5.00 per semester
Comprehensive Examination Fee	3.00
Re-examination Fee (for retaking a failed Comprehensive)	10.00
Transcript of Record	2.00 each 5.00 each for rush service
Scholarship Application Fee	5.00
Graduation Fee	25.00

Payment Procedure

One-half of the total tuition and dormitory charge for the entire academic year, exclusive of fees, is to be paid prior to completion of registration for the Fall Semester. The remaining one-half becomes payable on January 15. The University registration fee, dormitory registration fee, and other miscellaneous fees must be paid in full at the time of registration for the Fall Semester.

All outstanding accounts in any division of the University must be cleared before registration for additional credits can be approved. Students will therefore not be permitted to register until all outstanding balances have been paid, or satisfactory arrangements made with the Office of Student Finances.

Checks or money orders are to be made payable to Yeshiva University. All payments must be made directly to the Office of Student Finances; no one else is authorized by the University to accept payments.

No student will be permitted to graduate until all his indebtedness to the University has been discharged.

Withdrawal Procedure

Students who withdraw from school with the written approval of the Dean or Director no later than the date set by the Office of Student Finances (usually the fourth week of the semester) may receive a refund of 75% of their tuition and dormitory payment upon written application to that office. Students who withdraw after this date are responsible for their charges for the entire semester. Under no condition will charges other than tuition or dormitory rental be refunded.

Living Expenses

With the exception of tuition, fees, and dormitory rental, living expenses at school are individual matters. Such personal items as food and clothing expenses are naturally

subject to a great deal of variation. Meals in the dining halls are served cafeteria style.

Many students find jobs during summer vacations and the school year. Opportunities for employment and earning power usually increase as they progress through college. The income derived from such employment can help offset personal expenses during the school year.

The Student Budget

Expenses

The chart of expenses below has been prepared for undergraduate students attending Yeshiva College or Stern College. Expenses shown are for the 1973-74 school year of 40 weeks. All figures are approximate. It should be remembered that a student would incur many of the personal expenses and food costs even if he did not attend school.

	Resident Student	Commuting Student
Tuition	$2,250	$2,250
Fees (registration, laboratory, activities, etc.)	125	125
Residence Hall Rental	520	
Board	950	500
Books and Supplies	125	125
Personal Expenses (carfare, clothing, laundry, recreation, etc.)	600	450
Total	$4,570	$3,450

What Is Expected of Parents and Students

A college student's most important single source of financial help is his parents. Some families of very modest means can give only moral support, but the overwhelming majority of parents can and do provide substantial financial help as well.

Yeshiva University is eager to help parents meet educational expenses, but expects each family to pay as much as it can reasonably afford and as much as other families in similar financial circumstances. The University ex-

pects a family to draw on both current income and accumulated assets to meet education costs.

The gap between the financial resources of many students and the sums needed to meet the expenses of a college education may be filled in many ways, which are not mutually exclusive. These are the areas to be explored:

a. Parental support, including family savings and assets

b. The student's personal savings, including trusts and bonds

c. Summer work

d. Part-time work during the school year

e. Loans obtained by parents through family, friends, or commercial organizations

f. Student loans—from the National Direct Student Loan Program and through federal and state guaranteed programs

g. Scholarship grants—from Yeshiva University, state scholarship programs, and programs sponsored by community, fraternal, and industrial organizations

FINANCIAL ASSISTANCE PROGRAM

Students seeking financial assistance from Yeshiva University are required to submit, in addition to the Application for Admission, an Application for Student Financial Assistance. This application consists of a formal application as well as a Parent's Financial Statement. It is expected that prospective students will file their Financial Assistance Application at the time they apply for admission. Forms are available from the Office of Student Finances or the Office of Admissions.

Eligibility criteria and the extent and amount of assistance that can be provided through one or more of the six programs administered by Yeshiva University are based upon evaluation criteria developed by the College Scholarship Service, a cooperative organization of more

than 1,500 leading educational institutions. The Service evaluates the student's financial statement and makes an objective recommendation which helps the University determine the amount of any assistance allocated to the student. The University will make every effort to provide the assistance needed by each individual student. At times, however, the availability of student aid funds does not make it possible to meet a student's full need. Sometimes a student and his parents may have to supplement the assistance granted through the University by the judicious use of other forms of assistance sponsored by state or community organizations.

The Yeshiva University Financial Assistance Program is the total assistance available to a student from the six programs administered by the University:

1. Tuition Scholarship Program
2. Residence Hall Scholarship Program
3. National Direct Student Loan Program
4. College Work-Study Program (Student Employment) a) Summer (full-time) b) Academic year (part-time)
5. Supplementary or Basic Educational Opportunity Grant Program (Federal Scholarship Program)
6. Students in the Erna Michael College B.A. program may be eligible for participation in a specially funded scholarship program after they have satisfactorily completed their first year of study (see page 68). Further details may be secured from the Office of Student Finances.

Students pursuing only the Hebrew teacher's diploma at Teachers Institute for Women are eligible solely for the University Tuition Scholarship Program.

OTHER SOURCES OF ASSISTANCE

In addition to the University-administered programs mentioned above, the following sources of assistance are worthy of consideration.

State and Federal Guaranteed Student Loan Programs

All states have guaranteed loan programs for legal residents, thereby making it easier and often less expensive for them to borrow for education. These programs provide for long-term loans to be made directly to students. The loans are usually administered by commercial banking institutions.

Interested students should contact their state education department for specific information.

City, State, and National Scholarship Programs

Students planning to enter Yeshiva University may apply for scholarships granted by industrial corporations and government agencies. Awards are generally made on the basis of competitive examinations. Among these are: National Merit Scholarships; Maine, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont State Scholarships; New York Governor's Committee on Scholastic Achievement.

Canada Student Loans Plan

The purpose of the Canada Student Loans Plan is to make bank loans available to Canadian students who need financial assistance to enable them to engage in full-time study toward a degree.

To be eligible a student must be enrolled, or intend to enroll, as a full-time student. He must be a Canadian citizen or must have lived in Canada at least a year and declare that he intends to live in Canada after graduation.

The maximum that may be borrowed by a student is $1,000 in any one year, and not more than $5,000 in

aggregate. Students are normally expected to repay the total amount of the debt over a period of 5 to 10 years after graduation or termination of full-time study.

Further information and application forms can be obtained from the Department of University Affairs, Canada Student Loans Plan, Parliament Building, Toronto 2, Canada.

For complete information on scholarships, student employment, loans, and other methods of educational financing, consult the Office of Student Finances, Yeshiva University, 500 West 185th Street, New York, N.Y. 10033.

STUDENT WELFARE & ACTIVITIES

Student Welfare and Activities

Housing

The University maintains modern residence halls at both the Main and Midtown Centers. Application forms for accommodations are sent to students who have been admitted and have submitted the required registration fees. Undergraduates who do not live with parents or relatives are expected to reside in these dormitories.

Leah and Joseph Rubin Residence Hall (2501 Amsterdam Avenue) and Morris and Celia Morgenstern Residence Hall (2525 Amsterdam Avenue) border the Danciger Campus at the Main Center. Here are lounges, study halls, and, in Rubin Residence Hall, a dining hall.

Brookdale Residence Hall (50 East 34th Street) is near the College building at the Midtown Center. It contains study rooms, lounges—with kitchen facilities and television sets—and laundry room. A dining hall is located in the College building.

Students living in the residence halls are members of the respective student organizations, media of self-government through which each student may realize greater benefits from the college experience and residence on

campus. Student organizations sponsor a variety of club programs, discussions, and lectures, together with a full schedule of activities including weekend trips enabling students to experience hospitality with alumni families in various parts of the city. Residence Hall Directors and Resident Assistants maintain an informal atmosphere and supervise all programs.

Guidance and Counseling

The student's present well-being and future plans are among the primary concerns of the undergraduate colleges. Guidance and counseling services are designed to help solve academic and personal problems and achieve a close relationship among all members of the University family. Orientation week helps the incoming student adjust to college life and develop the skills needed for maximum achievement.

Guidance and counseling programs have been developed in four areas:

1. *Academic* In addition to academic counselors who offer general guidance and assistance with problems in classwork, instructors and major-subject advisers are available for consultation during regularly scheduled office hours. The Office of the Registrar advises as to course and major requirements, sequences, and schedules. Other administration members available for counseling are the Deans and Directors of the undergraduate schools, Vice President for Student Affairs (Main Center), and Office of Student Services (Stern College).
2. *Vocational* Vocational guidance counselors administer and interpret a broad range of tests in aptitudes, intelligence, and vocational choice. Continuing advice and information on careers and opportunities for graduate study are also available. Freshmen are interviewed as a matter of course while upperclassmen are strongly urged, especially in their junior year, to avail themselves of this service. The vocational guidance program also includes career conferences with outstanding practicing professionals. Specialized counseling for teachers continues beyond graduation.
3. *Psychological* Professional personnel help students with psychological problems that interfere with study programs or with proper functioning in college. They also administer such tests as are necessary to diagnose situations as a preclude to psychological guidance. A psychiatrist is available on referral.
4. *Personal* Personnel of the Office of the Vice President for Student Affairs (Main Center) and the Office of Student Services (Stern College) are available for consultation on any personal problems. Religious guidance counselors are also available for students who desire guidance in that area.

In addition to the service provided to all Yeshiva College students, each section of the freshman class at James Striar School is assigned a faculty adviser who devotes two hours each week to individual conferences with students. During each semester every freshman is invited to two conferences with his adviser, who is also available for consultation on the student's request. Additional advisers cover the other classes.

Placement

The Placement Bureau aids students in finding part-time and summer jobs and helps graduates find permanent employment. In cooperation with the bureau, Erna Michael College and Teachers Institute for Women provide placement services which obtain regular teaching positions for graduates, as well as Sunday School, summer camp, and auxiliary teaching employment for students.

Health

The Medical Director reviews the health forms of entering students. Whenever physical defects become apparent, corrective measures are taken through the student's family physician. Consultant psychologists work closely with the Medical Director in matters of student health. The health service functions primarily for preventive

purposes. Medical offices and infirmaries are located in Rubin Residence Hall and Brookdale Residence Hall.

Extracurricular Activities

Despite the heavy undergraduate course load, extracurricular activities are important instruments for the student's physical and intellectual development and the integration of all aspects of the educational process. Only full-time students who are not on probation are eligible to participate in these activities, except with special permission of the Dean or Director; students on probation should see pages 40, 74, 87, and 97.

Students are encouraged to take advantage of the unequaled cultural and recreational facilities of New York for furthering their particular interests, whether in the theater, music, art, sports, or any other field.

Yeshiva College and Stern College Senates

Yeshiva College and Stern College each have a Senate, an organization in which students, faculty, and alumni share responsibility with the administration for governing the affairs of the College.

The Yeshiva College Senate Constitution, drafted in a joint effort by representatives of these groups, was approved by President Belkin in May 1969. The Senate has jurisdiction over academic standards, admissions policy, curriculums, and degree requirements. Measures passed by this body are submitted to the President and the Faculty Assembly, both of which have the power of veto (the faculty by a two-thirds vote). The Senate has no authority over the application of regulations to students. Senate members are: a) six students elected by the Student Council for terms ending at graduation; b) eight faculty members elected by the Faculty Assembly for two-year terms; c) one alumnus appointed by the College Alumni Association; d) five members of the administration—Vice President for Student Affairs, Vice President for Business Affairs, Dean of the College, Registrar, Director of Admissions.

The Stern College Senate, established in 1971, has a range of authority generally similar to that of Yeshiva College. Its decisions, as well, are subject to veto by the President and the Faculty Assembly. The Senate is composed of six students, six faculty members, one alumna, and two members of the administration—the Dean of the College and a representative of the Office of Student Services.

Student Government

Each school has its own Student Council, composed of student representatives, which is the chief body dealing with matters affecting students and their various relationships with the faculty, administration, and extracurricular activities organizations. While some programs concern only one school, many activities are enhanced by the participation of two or more councils.

The Yeshiva College Student Court, a judicial body, deals primarily with infractions of dormitory regulations and disputes between students at that College.

Academic Council and School Committees

Student representatives participate on the Academic Council of the Undergraduate Schools and other University bodies.

At Yeshiva College student representatives are members of the following faculty committees: Committee on Curriculum and Instruction, Library Committee, Scholastic Standing Committee, Student Activities Judiciary Committee, Student Activities Policy Committee, Welfare Committee.

At Stern College students are represented on important school committees and are invited by several departments to participate, as regular voting members, in departmental meetings.

Erna Michael College and James Striar School each have a Student-Faculty Committee consisting of three students appointed by the Student Council, and three faculty mem-

bers designated by the Dean or Director in consultation with the council. The committee meets at regular intervals to discuss plans, issues, problems, and criticisms that may be raised in regard to the educational or administrative aspects of the school, and to make appropriate recommendations.

Athletics

Athletic programs are designed to encourage the participation of every able-bodied student, whether in varsity or intramural sports. Varsity sports with intercollegiate schedules are wrestling, basketball, bowling, fencing, and tennis. The University is a member of the National Collegiate Athletic Association; Knickerbocker Collegiate Basketball League; Eastern College Athletic Conference; Metropolitan College Tennis Conference; Amateur Fencing League of America; Metropolitan Association, Amateur Athletic Union of the United States; and Eastern Intercollegiate Bowling Conference.

Publications

The Yeshiva College student newspaper is *The Commentator* and the yearbook is *Masmid. Kol* is the student literary magazine. The student magazine of cultural events and reviews is *Tempo.* There are several club publications. Two Hebrew language publications—the newspaper *Hamashkif* and yearbook *Nir* prepared by Erna Michael students—and the English newspaper *Hamevaser*, prepared by students of James Striar School and the Yeshiva Program, are also issued at the Main Center. All are edited and published by the students themselves.

Stern College students publish a newspaper, *The Observer*, and a yearbook, *Kochaviah. Ashes and Sparks* is the student literary magazine and *Perspective* is a scholarly review.

Clubs

At Yeshiva College a number of clubs, some inspired by classroom work, meet regularly during the school year. Eight national honor societies have chapters at the College: the Gamma Delta chapter of Eta Sigma Phi gives recognition to students in the classical languages; the Alpha Omega chapter of Pi Delta Phi, in French; the Psi Iota chapter of Sigma Tau Delta, in English; Psi Chi's chapter, in psychology; Tau Kappa Alpha's chapter, in debating; Pi Mu Epsilon's chapter, in mathematics; Pi Gamma Mu's chapter, in the social sciences; and New York Zeta chapter of Alpha Epsilon Delta, in pre-medical studies. The Debating Society and Chess Team participate in intercollegiate competition. Opportunities are afforded for dramatic expression in the Dramatics Society, varsity shows, and annual class competitions held at the Student Council Reception. The Neighborhood Youth Corps is a voluntary tutoring program serving disadvantaged children of nearby elementary schools. Radio station WYUR, a student-operated member of the Intercollegiate Broadcasting System, transmits programs of interest to dormitory residents.

Students at Erna Michael College and James Striar School share dormitory and campus life with Yeshiva College students. In addition, Erna Michael College offers its own program of extracurricular activities.

At Stern College club activity often enhances the various social functions for students and their escorts held at frequent intervals. In addition to events conducted by the individual classes and dormitory residents, there are occasions for social get-togethers of the entire student body and their friends. The talents of the Choral Group are frequently incorporated into the programs for these evenings. In an American Red Cross pilot program the Civil Service Club helps students prepare for future careers in such fields as occupational and physical therapy, social work, and public relations, through on-the-job training in voluntary agencies. Students participate in many other clubs as well.

Students at Teachers Institute for Women participate in a program of extracurricular activities including school assemblies. A major event is the Farewell Dinner for the graduating class at the close of the academic year.

Sponsorship

Every student organization and publication, except the various Student Councils and newspapers, must have a faculty adviser.

Music Department

In addition to offering the music courses listed in this Catalog, the Music Department conducts several extracurricular activities. The instrumental and choral groups enable students to participate in musical programs, and a voice clinic provides individual vocal consultation. Facilities are available for piano practice, and other instruments—mainly violins—may be borrowed. The department's Music Library at the Main Center, containing books, music, and records, is open to those engaged in music study.

Book Stores

A University-approved store at the Main Center sells books, supplies, records, and electrical equipment at reduced rates. At the Midtown Center a student-run store offers books and school supplies.

Teachers Institute for Women operates a Book Cooperative, a nonprofit enterprise enabling students to obtain required books without having to purchase them. The service charge is 50¢ per book, per semester. A deposit is required of each student at the following rate: for one book, $5; two to five books, $10; six books or more, $15. The deposit less service charges incurred is returned at the end of the semester. Books must be returned during the week of final examinations; an additional 50¢ per book is deducted from the deposit for books returned late. The deposit is forfeited if books are not returned within one month.

Alumni Office

Alumni Associations

Through June 1973 the undergraduate schools granted 7,700 degrees and diplomas. Among the graduates are distinguished leaders in government service, education, the professions, and industry. Alumni associations of the various schools enable graduates to maintain close relationships with fellow students and faculty members and to aid in the development of alma mater. Through meetings, dinners, lectures, and periodicals, members keep abreast of University affairs and share mutual interests. Alumni publications include those of the alumni associations of Yeshiva College, James Striar School, Stern College, and Teachers Institute for Women (*Bat Hayyil*). The Educational Materials Exchange of Teachers Institute for Women enables alumnae of that school to circulate among themselves creative teaching materials (such as plays and teaching texts) which they have prepared. Graduates of all schools receive such University publications as *Inside Yeshiva University*, and thus remain informed of institutional developments.

Yeshiva University graduates in the process of settling in Israel are assisted by the Yeshiva College Alumni's *Aliyah* Committee and the Teachers Institute Alumnae-Israel Branch's *Klitah* Committee. Through its *Hakhnasat Orhim* Program, the Teachers Institute Alumnae-Israel Branch also enables Institute students in the Israel Study Seminar to experience home hospitality with alumnae who have settled in that country.

The Alumni Council—providing for representation by each of the alumni associations—offers the University's President and Board of Trustes guidance and counsel in advancing the institution's academic, development, and service activities. The Alumni Fund Cabinet coordinates fund-raising activities among the University's various alumni organizations.

Alumni have the privilege of taking courses at their alma mater as auditors or for credit, without tuition or

at greatly reduced rates. For information, contact the school's Office of the Dean or Director.

Student Free Loan Funds

Through the Mendel Gottesman Student Free Loan Fund (established by Eli M. Black, Yeshiva College 1940) and the Samuel and Anna Schwartz Loan Fund (established by Eli Sar, Yeshiva College 1941) any sum up to $50 may be borrowed without interest for a period of one month.

Alumni groups and the various funds are administered by the Alumni Office, Yeshiva University, 500 West 185th Street, New York, N.Y. 10033.

UNIVERSITY REGULATIONS

Regulations uniformly applicable to all undergraduate schools are given here; those pertaining to one school alone are given in that school's section of this Catalog. Students must consult both sections.

Notices

Students are responsible for the contents of this Catalog and for notices on the official bulletin boards of the various offices of the University; these bulletin boards should be consulted daily. Every effort is made to have major notices posted at least two school days before their effective date.

Changes in Regulations

The University reserves the right to change tuition, fees, regulations, and graduation requirements at any time without prior notice. Changes become binding on all students when posted on University bulletin boards or published in official University statements. However, sympathetic consideration will be given to a petition by a student for permission to continue his current course of studies under the requirements in effect at the time he registered his major, provided that he was a Regular

student (see page 11) and provided that he is not taking more than the normal period of time to complete his program.

Examinations

Once a student has taken a final examination, *no re-examination may be given.* No excuse—whether of illness, lack of preparation, or any other reason—will be accepted as grounds for a retest or an additional test. A makeup examination may be given only if a student is absent because of illness certified by a physician's note or some equally compelling cause. The fee charged each student for a makeup examination administered by the school office is $5.00.

A final examination may be postponed only on account of illness or some equally compelling reason which causes absence at the time of the examination or immediately preceding it or for a considerable portion of the semester. Whenever possible, permission to postpone a final examination must be obtained from the Dean or Director before the examination. Otherwise the request for a makeup test should be made as soon as possible after the examination.

When a student does not avail himself of the privilege of postponement but takes the regular examination, his record must stand and will not be altered on the ground of illness.

When a student is absent from a test and the absence is due to illness or equally compelling cause, the absence is not counted against his record. The instructor of the course determines whether the test is to be waived or a makeup test given. If the absence is not of the above kind, the student's standing is to be determined by the instructor.

If a student arrives late at any examination and has no valid excuse for his lateness, he is given the test and permitted to do what he can in the remainder of the

allotted time; he is not given any extension of time at the close of the examination.

Cheating on an examination will subject the offender to disciplinary action, including possible expulsion from the University.

Tentative Grades

Students are expected to take all tests and complete required coursework during the semester, and are graded accordingly. Therefore, if at the end of the semester a student has not made up examinations he missed or has not submitted all required reports or has not completed all laboraotry work, the instructor normally gives him a definite grade on the basis of the work done, with the work or examination missed averaged into the final grade as an F.

With the approval of the Dean or Director, however, the instructor is permitted to give the student a tentative grade. The Dean or Director may approve the giving of a tentative grade only in cases of illness certified by a physician's note or for other serious reasons acceptable to the Dean or Director. Failure to complete all work because of the pressure of other requirements or commitments is an unacceptable excuse.

A student who believes that he has an acceptable excuse is to fill out a copy of Form T29, which he presents to the instructor for approval and then to the Office of the Dean or Director.

A tentative grade becomes final on February 15 for the Fall Semester or on June 30 for the Spring Semester, unless the Office of the Registrar is informed by that date that the grade is to be changed.

Programs

Outside and Summer Work

Permission of the Dean or Director is required in order to take any courses at another institution, or another

school of Yeshiva University, at any time; or to take any courses in the summer. Permission is to be requested on the following forms, available in the Office of the Registrar: P10, to take courses at another institution; P3.1, to take courses at a graduate school of Yeshiva University; M37, to take courses at Yeshiva College during the summer or at another undergraduate school of Yeshiva University.

Normally permission is granted for summer work at Yeshiva University or elsewhere for a maximum of 6 credits or two courses.

Courses transferred from another institution, whether taken before or after admission to Yeshiva University, appear on the student's record with credit value only; grades earned elsewhere are not entered on the records of Yeshiva University.

Junior Year Abroad

Yeshiva University believes in the value of study abroad. This is best done in the junior year, since the senior year must be spent in residence, and programing complicates a leave abroad during the sophomore year. Students wishing to study abroad must first file Forms M12 and P10.

Many Yeshiva University students are particularly interested in studying in Israel. A detailed description of such opportunities is found in Form P6.

All the above forms are available in the Office of the Registrar.

General

No credit is given for an elementary course taken after completing an advanced one. The specific regulations applicable to foreign languages will be found on pages A student registering for a course for which he does not 35, 84, and 94.

have the prerequisites may be denied grade and credit for the course.

A student who fails any required course (regardless of credit value) twice may be dropped from the school.

No student may take any course at another school without written permission. Even with such permission at least 18 credits in the major subject must be taken at the school of Yeshiva University which the student attends.

A student who has achieved a passing grade in a course may not retake it. In exceptional cases the Dean or Director of a school may permit a student who received a D (or equivalent grade) to retake the course, provided that the student has not taken a higher course in the subject after receiving the D.

Graduate Courses

Joint bachelor's-master's programs exist, under which qualified seniors can take courses at the University's graduate schools and receive credit simultaneously toward their undergraduate degree and a graduate degree. Full information is given in Form P3.3, available in the Office of the Registrar.

Under exceptional circumstances seniors not in a joint program may take graduate courses for graduate credit. Full information is given in Form P3.4, available in the Office of the Registrar.

Seniors who are not eligible for the joint programs or who are interested in subjects in which joint programs do not exist, and who have acceptable records, are permitted to take graduate courses for undergraduate credit. Full information on such courses is given in Form P3.2, available in the Office of the Registrar. Such students will not be allowed graduate credit for the courses later, even if they do not need this credit for their undergraduate degree. Only students who originally received permission for graduate credit while still undergraduates and paid graduate tuition in addition to undergraduate charges will receive such credit.

Miscellaneous

Leaves of Absence and Maintenance of Registration

Students who are unable to return to the University because of illness or other personal reasons are advised to request a formal leave of absence on Form M12 if they expect to return to the institution at some future time. If they do not obtain such a leave, readmission may be denied.

Leaves of absence are ordinarily granted for a maximum of two semesters. Students on leave are not permitted to attend another institution without prior permission, which is to be requested on Form P10.

A maintenance of registration fee must be paid while a student is on leave (see Tuition and Fees, page 14). Sympathetic consideration will be given to an application by a student returning from an official leave who wishes to continue his course of study under the requirements in force at the time he was granted the leave.

Honorable Dismissal

A student who is withdrawing from the University and does not expect to return at some future date should fill out Form M15 to request an honorable dismissal. (A student who plans to return at some future date should not fill out this form but should instead file a "Request for Leave of Absence," Form M12.) Completion of this form insures that the student's record will bear the notation that an honorable dismissal was granted. The term "honorable dismissal" refers only to character and does not attest to the quality of work done.

Dismissal for Disciplinary Reasons

Yeshiva University expects its students to exhibit high qualities of character as well as to demonstrate academic ability. Every student is expected to adhere to the ideals represented by the University and to show seriousness of purpose, intellectual dedication, and respect for the views and convictions of others. The admission of a student,

his continuance on the rolls of the University, the receipt by him of academic credits, his graduation, and the conferring of any degree, diploma, or certificate upon him are entirely subject to the disciplinary powers of the University and to the student's maintaining the highest ethical and moral standards in his personal as well as in his academic life. The University is free to dismiss him at any time for infringement of these standards.

Student Assignments

The submission by a student of any examination, course assignment, or degree requirement is assumed to guarantee that the thoughts and expressions therein not expressly credited to another are literally the student's own. Evidence to the contrary, verified by the Office of the Dean or Director, may result in failure in the course, disciplinary dismissal, or such other penalties as are deemed proper.

Records and Transcripts

A transcript is not issued for a student without his written request, except to another school or to a government agency. In these cases, transcripts are issued upon the request of the school or agency. A transcript is not sent to an employer or prospective employer without the student's permission.

Records of students are sent only in the form of a transcript. No partial records are sent, or ones listing only courses without grades.

A student who wishes to change his name (either given or family) on school records must file Form M25, available in the Office of the Registrar.

Students who believe that there is an error in their academic record (e.g., in a grade, average, class standing, credit value, or course description) must promptly call this to the attention of the Office of the Registrar. Even if there has been a mistake on the part of the University, no request for a correction will be entertained unless the

student notifies the Office of the Registrar within three months.

Diplomas

Duplicate or revised diplomas can be secured under certain circumstances. Full information is given on Form G15, available in the Office of the Registrar.

Use of the University's Name

No student or student organization may use the name of the University or any of its components in print for any purpose, including identification, without written permission from the Office of the Dean or Director.

General

The University cannot transmit personal telephone messages to students except in dire emergency. Students should instruct their friends and family not to telephone them at the University.

All injuries and accidents to students while engaged in classroom work will be reported by the staff member in charge of the course. Students are required to report immediately to the school office any other injury suffered on University premises. A detailed listing of procedures to be followed in case of accident or illness is available in the Office of the Vice President for Student Affairs.

All posters and notices announcing events must carry the name of a sponsoring club or faculty member. If they do not, they will be removed.

If the instructor does not appear within 10 minutes of the starting time of a class, the class is to send a representative to the Office of the Dean or Director for instructions. If the office is closed, the class is permitted to leave after 20 minutes.

Students who change their home or local residences are required to notify the Office of the Registrar of the change of address within 10 days on Form M29. A

student is responsible for all mail sent to his old address if he has not so notified the University.

GENERAL ACADEMIC INFORMATION

Academic Terminology

For the convenience of students, certain academic terms frequently used at Yeshiva University are defined below:

ACADEMIC AVERAGE A measure of the student's scholastic achievement. Methods of calculating the average are described on pages 39, 86, and 96.

CLASS SECTION A group of students taking a particular course at a specific time. It is identified in course schedules by a section number or letter, e.g., Art 1 section 261.

COLLOQUIUM A reading course on important books, with group discussion led by experts from various subject areas.

COREQUISITE A requirement which must be met at the same time that a certain course is taken.

CORRELATE A course required for a major which is not in the major department.

COURSE A particular portion of a subject. It is identified by a course number, e.g., Art 22.

COURSE DESCRIPTION The statement in the Catalog outlining the content of a particular course.

COURSE TITLE A work or phrase describing the course content. Thus, at Yeshiva College, the course title of Art 22 is Esthetics.

CREDIT The credit value of each course is listed after its title in the Catalog. At least 45 academic hours (each 50 minutes long) of formal classroom instruction and other types of study are required to earn 1 credit. These 45 hours are divided as follows: In an undergraduate lecture-recitation course, 15 academic hours in class plus 30 in home preparation; in a laboratory course,

30 academic hours in class plus 15 in home preparation; in observation and supervised student teaching, 36 academic hours in class plus 9 in home preparation. For 1 credit in a gymnasium or studio course, 45 *clock* hours are required. In a graduate lecture-recitation course, 1 credit may be earned for 10 academic hours in class plus 35 in preparation. Class hours include examinations. (These hours are minimum and may be increased to satisfy special requirements in certain courses.)

The unit of credit referred to above is the semester hour. Certain institutions use quarter-hour credits; to convert these to semester hour credits, multiply by two-thirds and drop any fraction.

CURRICULUM A planned group of courses (and ancillary experiences) leading to a specific degree, diploma, or certificate.

DEPARTMENT Within the school, an administrative division which offers instruction in a particular branch of knowledge.

ELECTIVE A course which a student may choose to take, as distinguished from a prescribed course, which he must take.

EQUIVALENT COURSES Some courses in this Catalog carry an explicit prerequisite plus the words, "or equivalent." Whether or not these words appear, an "equivalent" can be presumed to be acceptable for any prerequisite listed. Generally an equivalent is a course taken at another institution officially evaluated by the Registrar at Yeshiva University on Form T19.1 as having substantially the same contents; but it may also be successful completion of a written examination or other evidence of ability to handle the more advanced work, approved in writing by the instructor on Form R15.

INTERSESSION The period between semesters. A short intensive course given at the very beginning or very end of the summer is known as an intersession course.

MAJOR The subject which a student chooses for primary emphasis. On the graduate level the term *program* is often used instead.

MINOR The subject which a student chooses for secondary emphasis.

PREREQUISITE A preliminary requirement which must be met before a certain course can be taken.

PRESCRIBED COURSE One required for graduation, either for all students or those in a particular area of study.

PROBATION The status of a student whose enrollment has been placed on a trial basis for scholastic or disciplinary reasons (see pages 38, 39, 40, 41, 73, 74, 87, 95, 96, and 118.

PROGRAM See *Major.*

REGISTRATION The process of enrolling as a student. It consists of three stages: a) filling out general information forms provided by the University and having them approved; b) selecting courses and sections and obtaining class admission forms permitting attendance in these classes; c) completing financial arrangements. The student is not registered until all three stages have been completed.

RESIDENCE REQUIREMENT The requirement for a degree or diploma which specifies the minimum period of time that a student must be in attendance at the school through which the document is granted, and the minimum number of credits that he must complete there. Residence is intended to give each student adequate contact with the school and its faculty. Residence credit is distinguished from transfer credit, i.e., credit for courses taken at another school of the university or at another institution; it does not imply that the student must live in a Universiy dormitory.

SEMINAR A course pursued by a group of advanced students under a professor, with each engaged in original

research or independent study and all exchanging results through reports and discussions.

STATUS The category under which a student is enrolled, e.g., Regular, Transient (see page 11).

SUBJECT A division into which knowledge is customarily assembled for study, such as art, mathematics, or speech.

TRANSCRIPT An unabridged copy of the student's record, certified by the Office of the Registrar.

Discrepancies in Information

Infrequently course numbers, titles, credits, or prerequisites in this Catalog may not be in agreement with those published elsewhere, such as in the *Schedule of Courses.* It may be that they have changed between the times the various publications went to press, or there may be a typographical error, or the information in one or the other may simply be wrong in spite of the efforts of all offices to assure that the information is correct and current. Questions about such discrepancies should be addressed in writing to the Office of the Registrar.

Course Listings

Subjects are listed in the Catalog alphabetically by school. The numerals in parentheses following the course title indicate, in order, the lecture-recitation hours, the laboratory hours, and the semester-hour credit value of the course, for each term.

Parentheses around the title of a course indicate that the course is not expected to be offered during the period covered by this Catalog. Not every course listed in the Catalog is offered every year; certain courses are given only once in two or three years. Courses offered during any specific semester, and their hours and room numbers, are listed in each school's *Schedule of Courses*, available at the Office of the Registrar.

Courses, though listed, will be offered only if there is sufficient enrollment. If a course is not offered, students who meet the qualifications will be permitted to take an equivalent course at another school of the University.

In general, an odd number indicates that a course is given in the fall; an even number, in the spring.

Courses which extend through two successive semesters are differentiated as follows:

1. Courses in which the first is a prerequisite for the second and *both* must be taken in order to receive credit for either are *hyphenated* (e.g., Education 51-52).
2. Courses in which the first is a prerequisite for the second but credit is given for the first course alone are connected by a *comma* (e.g., Chemistry 13,14).
3. Courses which may be taken separately or in any order, and for which credit is given for each, are separated by a *semicolon* (e.g., English 19;20).

YESHIVA COLLEGE

Yeshiva College

Yeshiva College, established in 1928, is the University's college of arts and sciences for men. It embodies the unique concept that the values of Judaism have a meaningful relevance to the general culture of Western civilization.

The College provides a wide range of educational programs and aims at combining broad training in the liberal arts and sciences with specialized preparation for advanced work in a specific discipline or profession.

In addition to these curriculums leading to the degree of Bachelor of Arts, students participate in programs of Jewish studies providing intensive analysis of classic texts in the Hebrew and Aramaic originals. Designed to deepen ethical and philosophical insight and values, they

also afford valuable supplementary training in research methods and independent work.

The College's location at the Main Center affords stimulating association with several of the University's other undergraduate schools, as well as graduate schools and affiliates, and provides easy accessibility to the major resources of the institution.

Mindful of its responsibilities as a liberal arts-oriented college in an urban center, Yeshiva College has incorporated a broad set of educational programs, student services, and extracurricular activities to meet the special needs of the individual student. It is aware of the opposing pressures of a society driving toward greater specialization and technology, and of the student seeking order and purpose for himself and a totality of meaning for his life. Students, faculty, and administration are in search of sophisticated solutions to these increasingly complicated problems.

CURRICULUMS

Bachelor of Arts

Majors

Each student must select one subject as a major.[1] He must have the permission of the senior professor of the subject, and must also obtain this professor's approval of his planned course of study. Subjects in which the student may major are listed below, with the page number where the requirements for that subject are given:

[1] A student who completes all the requirements for a major in a second subject, including the comprehensive examination, will, at his written request at least a month prior to graduation, have the second major also listed on his permanent record.

Biology, p. 42
Chemistry, p. 43
Classical Languages, p. 44
Economics, p. 45
English, p. 46
French, p. 48
Hebrew, p. 50
History, p. 51
Information Science, p. 53
Jewish Studies, p. 33
Mathematics, p. 54
Music, p. 55
Philosophy, p. 56
Physics, p. 57
Political Science, p. 59
Pre-engineering, p. 33
Premedical-Predental Studies, p. 33
Psychology, p. 60
Sociology, p. 61
Speech and Drama, p. 63

Regardless of how much transfer credit is granted a student, at least 18 credits in the major must be taken at Yeshiva College.

The approval of both the senior professor of the subject in which the student is majoring and the Dean is necessary for a waiver or substitution of one course for another in the requirements for graduation or for the major; the request should be made on Form R15 and approval must be secured before the student takes the substitute course.

Only courses in which grades of C or better were earned may be used to meet the requirements in a student's major. (This applies only to courses in the subject itself, and not to correlate requirements.)

The student is expected to achieve a good general knowledge of his major, an objective which usually cannot be met solely by taking courses. He is therefore advised of the importance of self-study and extensive supplementary readings in his area of interest.

Interdepartmental Majors

Pre-engineering

The following courses are required for the pre-engineering major:

a. Chemistry 5-6 (R & L)

b. Drafting .1a-b (Students planning to become aeronautical, chemical, or electrical engineers may be excused from this course with the permission of the Adviser to Pre-engineering Students)

c. Mathematics 9-10 (or 1.1-2.1 and 3.1, 4.1 or 5.1), 23-24 (or 23a-24a), 33, 34 (or 33a, 34a)

d. Physics 1-2 (R & L), 11a, 12a, 13 14

While the course of study at Yeshiva College is ordinarily four years for pre-engineering majors, as for all others, Yeshiva University is devising Combination Plans with engineering schools in the metropolitan area. An arrangement with Polytechnic Institute of New York is already in effect. Under these plans a student who attends Yeshiva College for three years and receives the recommendation of the Adviser to Pre-engineering Students is admitted by the engineering school as a junior. He attends the engineering school for 1½ years (depending on his preparation and the branch of engineering studied), and qualifies for degrees at both Yeshiva College and the engineering school. Yeshiva University confers the Bachelor of Arts degree upon a student undertaking the Combination Plan at the successful completion of the fourth year of study, and the engineering school confers a Bachelor of Science degree at the close of the program.

Students in a Combination Plan are excused from the fourth year requirements in Jewish Studies.

Premedical-Predental

The following courses are required for the premedical-predental major:

a. Biology 1 (R & L), 10 (R & L)

b. Chemistry 5-6 (R & L), 13, 14

c. Mathematics 1.1-2.1 (or 5.1 or 9-10)

d. Physics 1-2 (R & L)[1]

[1] This course may not be taken in the senior year at Yeshiva College.

Each premedical and predental major is advised to designate another subject as a minor (see page 34).

Pre-law Training

Students planning to enter law school after college may major in any subject. However, a social science is recommended.

Prospective Teachers

Form P1.5, available in the Office of the Registrar, lists recommended courses for students who plan to become teachers.

Jewish Studies

Students majoring in Jewish Studies are required to take 27 credits chosen from the following:

a. Hebrew—excluding courses 1-2, 1a-2a, and 71 through 78

b. Hebraic Studies—courses 11 to 18 [2]

c. History—courses 73-up

d. Philosophy—courses 71-up

At least 15 credits must be concentrated in one of the following areas: Hebrew 3 through 69; Hebrew 79 through 89; History 73 through 99.

Students in Erna Michael College who wish to major in Jewish Studies at Yeshiva College must transfer 33 credits from Erna Michael College to Yeshiva College.

No course in James Striar School may be counted toward the major.

Certain courses at Bernard Revel Graduate School-Harry Fischel School for Higher Jewish Studies and in the Department of Jewish Education of Ferkauf Graduate

[2] With written permission of the Chairman of the Division of Jewish Studies, courses numbered 1 to 6 and 21 to 28 may also be counted toward the major.

School of Humanities and Social Sciences may count toward the requirements for the major with the written approval of the Chairman of the Division of Jewish Studies. Interested students should apply on Form P3.1 for permission to take graduate courses, specifying that they wish the course to count toward their major.

Minors

A student may choose a minor subject and have it listed on his permanent record upon his written request at least a month prior to graduation. Subjects in which it is possible to minor are listed below, with the page number where the requirements for that subject are given:

Art, p. 42
Biology, p. 42
Chemistry, p. 43
Classical Languages, p. 44
Economics, p. 45
English, p. 46
French, p. 48
Hebrew, p. 50
History, p. 51
Information Science, p. 53
Jewish History, p. 51
Jewish Philohophy, p. 56
Mathematics, p. 54
Music, p. 55
Philosophy, p. 56
Physics, p. 57
Political Science, p. 59
Psychology, p. 60
Sociology, p. 61
Speech and Drama, p. 63

Students must indicate their minors on Form M37 not later than the last day of the lower-senior semester.

Acceptance of courses taken at other institutions toward the minor is at the option of the senior professor of the subject, but in all cases at least 12 credits must be taken at Yeshiva College.

Only courses in which grades of C or better were earned may be counted toward the minor, except that in the first elective in a subject a P grade will be accepted.

Degree Requirements

a. Credit requirement: 128 credits [1] (1 credit represents one period of lecture or recitation, or two periods of laboratory work, per week for one semester, unless

[1] Of the 128 credits not more than 8 may be in health education.

otherwise stated in the course listing. A semester consists of 15 weeks; a period, of 50 minutes.)

b. Residence requirement: Students must have attended an institution of higher education at least 8 semesters.[2] They must be in residence at Yeshiva College at least 4 semesters, taking at least 12 credits each semester, and must complete at least 58 credits at Yeshiva College. At least 24 of the last 35 credits must be taken at Yeshiva College.

A superior student who is admitted to a professional school at the end of his junior year at Yeshiva College will be eligible for a bachelor's degree from the College upon satisfactory completion of the first year of the professional school program, provided that he is admitted to the Professional Option plan. Full information is available in Form M65.

c. Grade requirement: An average of 2.0 or better in all studies and a grade of C or better in all courses in the major presented for the major requirement.

d. Administrative requirements:

1. Approbation of the faculty.
2. Completion of all requirements within six years of the date of admission to a college, excluding time lost because of serious illness or service with the armed forces.
3. Filing of an Application for Degree during the registration period of the semester in which the student completes all requirements.
4. Comprehensive examinations—To be eligible for graduation, each senior must take comprehensive

[2] For a semester to be counted as one of the eight, the student must have taken at least 12 credits of college work. Semesters (but not summer sessions) in which less than 12 credits were taken may be combined into multiples of 12. For example, a student who took 11 credits in each of two terms will be considered as having completed one semester; a student who completed 8 credits in each of three terms will be considered as having completed two semesters. Exceptions to the eight-semester rule will be made only under the conditions specified on Form M61.

examinations, which the school uses for evaluation and diagnosis. These are described on Form P8.

The following courses are required of all students:

		credits
A.	Natural Sciences	
	Biology 1 (R & L), 10 (R & L) *or* Biology 1a-2a *or* Chemistry 5-6 (R & L) *or* Physics 1-2 (R & L) *or* Physics 1a, 2a	6-8
	[1] Health Education 1;2	1
B.	Social Sciences	
	[2] Any two semesters chosen from the following: Economics 1, 2; History 1;2;5;6; Philosophy 1; 2;10;11; Political Science 1.1;2.1; Psychology 1, 2; Sociology 1, 2	6
C.	Humanities	
	Art 1 *and* Music 1	2
	1, [3] English 1.1, 3-4	9
	1, [3] Speech 1	3
	Additional languages	varies

Hebrew language, literature, and culture, as described below, *and* an intermediate level of knowledge of a second foreign language, except that science [4] majors may under the circumstances described

[1] No senior will receive credit for these courses. A senior who has postponed taking these lower division required courses until his last year will have to count the courses in his work load, and will have them count in his average, but will not receive any credit for them. A senior may, however, take these courses at any other accredited college and will, in that case, receive full credit for them. He must, of course, follow established procedures for applying for outside work (see Form T21.1 for details).

[2] History 5;6 must be taken if American History is not offered for admission, see footnote 1 on page 42 for further details.

[3] To receive his degree, a student must show mastery of written and spoken English. This is generally shown by passing English 1.1 —for written composition—and Speech 1—for spoken English. However, where a student is referred for remedial work, he must be approved by the respective department as having achieved the acceptable standard before he graduates.

[4] Science majors are biology, chemistry, information science, mathematics, physics, pre-engineering, and premedical-predental studies.

below substitute a scientific language course. Specifically this means:

I. If a student wishes to start a new language in college, not taken in high school, he must take Arabic or French or German or Greek or Latin or Spanish 01-02 and 1-2. If he is a science major he may substitute French or German or Russian 07-08.

II. If a student wishes to continue in college a language he has had in high school for ½ to 1½ years, he is to take the 01-02 and 1-2 courses, except that:

a. If he has had 1 or 1½ years he may start with 02 with the permission of the instructor.

b. If he is a science major he may substitute the 07-08 course, if one is offered in that language.

III. If a student wishes to continue in college a language he has had in high school for 2 to 3½ years, he must take the 1-2 course in that language, regardless of his major. Note that:

a. If he has had 3-3½ years he may take 2 alone, with the permission of the instructor.

b. If he takes courses 01-02 or 07-08, he will receive no credit because he is repeating work taken in high school.

IV. A student who has studied French, German, Greek, Latin, Russian, or Spanish in high school for 4 years, or who has equivalent knowledge, must prove that he has achieved an intermediate level of knowledge of the language in order to be excused from having to take a foreign language in college. He may do so by scoring a minimum of 600 on the appropriate Achievement Test (or 3 on the Advanced Placement Test) of the College Entrance Examination Board or 200 on the New York State College Proficiency Examination in that language. A student who has been unable to demonstrate the level-2 knowledge of a language may do one of the following:

a. Take course 2 (or, if he prefers, 1-2) of the language. If he passes he will have met the language requirement, though he will receive no credit for those courses because he is repeating work taken in high school.

b. Take the level-3 course of the language. If he passes it he will have met the requirement, and in addition will receive credit. (Certain advanced courses in French may be substituted for 3; see Catalog descriptions.)

V. A foreign student who has graduated from a secondary school in which the language of instruction was French, German, Russian, or Spanish has met the language requirement.

Students who plan to do graduate work are advised to meet with the senior professor of their intended subject of study and to consult the catalogs of the graduate schools they are interested in before choosing their foreign language.

DISTRIBUTION REQUIREMENTS IN HEBREW LANGUAGE, LITERATURE, AND CULTURE

A. Yeshiva College Courses

1. Yeshiva College (YC) is a college of liberal arts and sciences offering programs leading to the B.A. degree. It has the unique feature of requiring each student to be enrolled throughout his stay in a full course of study either in James Striar School (JSS), Erna Michael College (EMC), the Yeshiva Program (YP), or any equivalent program approved by the University.

2. The transfer credit which students receive at YC for their studies in these programs is listed below.

3. Students must complete the following courses at YC, unless their programs already include the

equivalents: Hebrew 1-2 (or 1a-2a); 3;4; 71 through 78; History 71;72.

4. Students who enter with a knowledge of Hebrew higher than the level of Course 4 must take two semesters of advanced courses in Hebrew literature.

B. James Striar School Courses

1. Transfer credit for courses taken at JSS is listed on the YC record as Hebraic Studies 01 through 08.
2. Students in JSS must transfer a minimum of 26 credits to YC.
3. Credit is transferred at the rate of 4 each semester the first three years of attendance and 1 each semester the fourth year, unless written permission for a change is received from the Director of JSS, the Dean of YC, and the Office of the Registrar.
4. One composite grade is given each semester for all work done in JSS that semester. A composite average under 1.000 is recorded as an F; 1.000-1.499, as a D; 1.500-2.499, as a C; 2.500-3.374, as a B; 3.375-4.000, as an A.
5. Students attending JSS may not take any Hebrew courses at YC, nor any History or Philosophy courses numbered over 70, without the prior written permission of the Director of JSS and the Office of the Registrar.

C. Erna Michael College Courses

1. Students in EMC must transfer a minimum of 18 credits to YC.
2. Credit is transferred at the rate of 3 each semester the first three years of attendance, unless written permission for a change is received from

the Deans of EMC and YC and the Office of the Registrar.

3. Students in the preparatory year may choose to exclude one course (other than Hebrew 01-02) from the composite grade transferred to Yeshiva College. Probationary students may, by waiving P/F privileges for the semester in question, exercise the same option (Hebrew 1, 2, and 3 are excluded). This exclusion refers only to transfer grades and does not affect the internal grades at EMC.
4. Students in their freshman and sophomore years at EMC transfer a composite grade listed on the YC record as Hebraic Studies 11 through 18. Such students may designate one EMC course to be taken on a P/F basis. They may do so until a date announced by the Office of the Registrar; if no designation is made by that time, a full composite is taken.
5. Students in their junior and senior years at EMC may choose any course or courses (3 or more credits in the junior year, 2 or more in the senior year) from among Bible, Hebrew, History, and Philosophy for transfer, except that students who are provisional or on probation, are not taking a full program at EMC, or who fail a course carrying 2 or more credits, must transfer a composite grade for that semester.
6. For internal purposes at EMC, grades are recorded and averaged in percent. For purpose of transfer to YC, each percent grade is first converted into a letter grade as follows: 90-99 = A, 80-89 = B, 70-79 = C, 60-69 = D, 50-59 = F. Letter grades are then converted into quality points (see page 39) and an average is calculated. This average is recorded on the YC record as follows: 3.375-4.000 = A, 2.500-3.374 = B, 1.500-2.499 = C, 1.000-1.499 = D, 0.000-0.999 = F.

7. Students attending EMC may not take any Hebrew courses at YC, nor any History or Philosophy courses numbered over 70, without the prior written permission of the Dean of EMC and the Office of the Registrar.

D. Yeshiva Program

Two or 3 credits a semester for a maximum of six semesters (the sophomore year and higher) may be transferred to YC for studies in the Yeshiva Program. Such courses appear on the YC record as Hebraic Studies 1 through 6.

E. Changes in Programs

Students who change from one program of Jewish Studies to another should consult Form A11.5, available in the Office of the Registrar, for their requirements.

Programs of Study

For the convenience of students the normal programs of study are given below:

Majors in Science

(Biology, chemistry, information science, mathematics, physics, pre-engineering, premedical-predental)

FRESHMAN YEAR		SOPHOMORE YEAR	
English 1.1 and Speech 1	3 cr. ea.	English 3-4	3 cr. ea.
Science	4-5	Adv. Science	3-5
Jewish Studies	3-4	Second Science	4-5
Mathematics 1.1-2.1 or 9-10	3-4	Jewish Studies	3-4
Art 1 and Music 1	1	Social Science or Language	0-3
Health Ed. 1;2	½		
Electives	0-3		

Majors in Other Subjects

FRESHMAN YEAR		SOPHOMORE YEAR	
English 1.1 and Speech 1	3 cr. ea.	English 3-4	3 cr. ea.
Language 1-2 or 01-02	3	Language 1-2 if necessary	3
Jewish Studies	3-4	Jewish Studies	3-4
History 1;2 or Mathematics 1.1-2.1	3	Science	3-5
Art 1 and Music 1	1	Major Courses	2-3
Health Ed. 1;2	½		
Electives	0-3		

Junior Year

Students who have not yet met the social science and language requirements should do so now. *Bulletins giving more detailed information on the course of study in specific majors are available.*

SCHOOL REGULATIONS

Regulations pertaining to Yeshiva College alone are given here; those uniformly applicable to all undergraduate schools are given in the section *University Regulations.*

Attendance

Classes in Yeshiva College meet Sunday through Thursday afternoons (generally between 1:30 and 7:30 p.m.) and Friday mornings (9 a.m. to 1 p.m.).

A student must in the first week of the semester submit his registration card in person to the instructor of the class in order to be officially recorded as a member of a class, and in order to learn the specific attendance and other requirements of that course. Students who fail to meet this regulation may be dropped from the course.

Attendance at lectures is compulsory only for freshmen and for all students who are on probation, including seniors. However, an instructor may require that on a particular day a student submit a written assignment, deliver a recitation, perform certain laboratory tasks, and the like. (Note that these regulations providing for

voluntary attendance apply only to Yeshiva College classes. A student who takes a course at another school in the University for transfer to Yeshiva College must abide by the attendance regulations of that school.)

Students on probation and freshmen are expected to attend all their scheduled class sessions and college exercises and to be present promptly at the beginning of the hour, unless prevented from doing so by illness or other compelling cause. In particular, students should avoid being absent immediately before or after a holiday or vacation; such absences are regarded as interfering with the collective interest of the College. Generally a student's attendance record is taken into account whenever there may be occasion to determine his status in the University.

A record of each student's attendance in each class is kept. A statement should be filed with the Executive Secretary of the Scholastic Standing Committee within 10 days of the student's return to school after being absent, if the student wishes the absence to be excused. Ordinarily only a physician's note will be accepted as an excuse for an absence because of illness.

Permission to register late in a course does not in itself excuse the student's absence from the classes already held. A student must file notes of excuse to cover the dates missed.

Students on probation must account for each absence and are subject to penalties for even one unexcused absence. For other students the pnalty for each six periods of unexcused absences (with periods of lateness and of absence from laboratory counting as one-half) is reduction of one credit in the credit value of the course. However, the Scholastic Standing Committee will not penalize students who at the end of a semester receive an A in the course, unless the instructor during the first week of sessions informs the students and the Committee that he wishes the usual penalties for excess absences to apply to everyone in the class.

If a class meets for 1½ periods a day, each absence counts as one and one-half; if a class meets for 2 periods a day, each absence counts as two.

Specifically, therefore, for 6-11 periods (*not* days) of unexcused absences one credit will be deducted; for 12-17 periods, two credits; for 18-23 periods, three credits.

Continued absence without excuse will result in dropping the student from the course with a grade of G. In addition, such students render themselves liable to being placed on probation. Flagrant cases of absence in several courses may necessitate withdrawal from the College.

If a student is absent or seriously incapacitated through illness for a considerable portion, but less than half, of a semester, his schedule will ordinarily be reduced.

If a student is absent from any course for any cause for more than half a semester, the course will not be counted toward a degree and the student will not be allowed to take any of the examinations. He will receive a W or G in the course (depending on whether the absences are excused or not).

Grades

The work of each student is graded on the following basis:

A Excellent
B Good
C Fair
D Poor (lowest passing grade)
F Failed
G Course dropped by student (failure)
M Missing (no grade reported)
N No credit (see below)
P Passed (see below)
R Repeat (to continue course)
T (followed by B,C,D, or F)—Tentative grade
W Withdrew without penalty

The mark of R is given in remedial courses when it is advisable that the student continue in the class.

Withdrawal from courses requires the permission of the Dean. Unless this permission is obtained in writing, the student receives a G, equivalent to failure, in those courses from which he has withdrawn.

Tentative grades are explained on page 25.

P or N System

Each student above the freshman year who is in good standing is permitted to select one course each semester to be graded P or N. This is for the purpose of stimulating students to take coursework outside their area of specialization; therefore the course may not be one required for graduation or required or recommended for the student's major. Students must apply for such a course during the period specified in the academic calendar on Form T28.1, available in the Office of the Registrar. This form lists the regulations and the limitations applicable to the choice of a course on the P or N system.

A grade of P is equivalent to at least a C.

Academic Average

Each grade has a numerical value, as follows: A=4; B=3; C=2; D=1; F=0; G=0. When the numerical value is multiplied by the credit value of the course, the resulting figure is known as the number of quality points.

The student's average rating is computed by dividing the number of quality points earned by the total number of credits completed, including courses failed. The average is rounded to the third decimal place.

Grades achieved at other colleges and universities are not averaged in with a student's record at Yeshiva College; only credit is granted on transfer.

Dean's Honor List

Each year, full-time students who have achieved a scholastic average of distinction are included on the Dean's Honor List, which classifies those listed as follows:

"With Honor": 3.400-3.599 average
"With High Honor": 3.600-3.799 average
"With Highest Honor": 3.800-above

Inclusion on the Dean's Honor List becomes part of the student's permanent record.

Honors at Graduation

To receive honors at graduation, students must achieve the following cumulative averages at Yeshiva College: *cum laude*, 3.400; *magna cum laude*, 3.600; *summa cum laude*, 3.800. Higher averages may be required by the Scholastic Standing Committee of students who have taken fewer than 94 credits at Yeshiva College.

Receipt of degrees with honors is not automatic; candidates must receive the approbation of both the faculty and the President. For *summa cum laude* candidates the approbation must be unanimous.

Probation and Academic Dismissal

A student whose academic average for any semester falls below 2.0 is placed on probation. If his average falls below 2.0 two semesters in succession, or three semesters nonconsecutively, he receives an academic dismissal. A student whose cumulative average at the end of any year is below 2.0 will not be permitted to reregister without specific approval of the Scholastic Standing Committee, which may impose restrictions or conditions.

Students may also be placed on probation for any of the following causes: unsatisfactory attendance record, unsatisfactory conduct, admission with a condition. Students on probation may not take more than 12½ credits a semester or work for remuneration unless specifically permitted to do so by the Scholastic Standing Committee. Under no circumstances may they participate in any extracurricular activities. They are required to attend all classes and College exercises. Such students may also be declared ineligible for financial assistance. Students who go off probation with a semester average below 2.25 or with a cumulative average below 2.0 are subject to all the restrictions placed on students on probation, unless specifically exempted by the Scholastic Standing Committee.

Probation serves as a serious warning to the student and his parents or guardian that his record is unsatisfactory and that significant improvement is expected. If such improvement does not occur in the semester during which the student is on probation, he is dropped from the College.

Credits for Enrollment in Classes

The minimum number of credits required for enrollment in each class is as follows:

CLASS	CREDITS	CLASS	CREDITS
Upper Freshman	12	Upper Junior	78
Lower Sophomore	28	Lower Senior	94
Upper Sopohmore	45	Upper Senior	111
Lower Junior	61	Graduation	128

No student, however, may be enrolled as a sophomore until he has removed all entrance conditions and completed all required freshman courses; and any student who is at any time carrying a sufficient number of credits to complete the total required for graduation is registered as an upper senior. A student will not be graduated until he has completed all his requirements and all his indebtedness to the University has been discharged.

Honors Work

Superior students may request permission to do work outside of regular courses, culminating in the writing of a thesis, under the following conditions:

A. The student must be at least a junior.

B. His academic average generally and in his major must be at least 3.4.

C. He must submit a written outline of independent work he plans to do leading to the writing of the thesis. The study and the paper based on it must have a unity of plan and be specific enough for a scientific report, and must represent distinguished work.

D. He must present evidence that regular courses are not available or do not suffice for his needs. The student must have completed at least 18 credits in the subject before doing honors work, but it need not be in his major.

E. The student must have a faculty sponsor under whose supervision he will work. This sponsor must be the senior professor of the subject or, in special cases, with the approval of the senior professor, another member of the staff. The student must also have the approval of the chairman of the appropriate division.

F. Normally 2 credits are granted for honors work. Upon recommendation of the sponsoring professor and with the approval of the Scholastic Standing Committee, 3 credits may be granted.

G. Honors work must require at least the same amount of work as is required in a regular course carrying the same credit.

H. A maximum of 6 credits a semester may be taken by a student in the form of honors work.

The required procedure is as follows:

1. At least two months before the end of the term previous to that during which the student plans to do his work, he must submit his request to the Office of the Registrar on Form P20. This form provides space for a description of the project and for the recommendations of the faculty sponsor, Office of the Registrar, and chairman of the division. The faculty sponsor also lists the examinations, if any, he requires of the student in addition to the paper.

2. The Scholastic Standing Committee considers every application and must give its approval.

3. At the end of the semester the sponsor submits the student's thesis to the Office of the Dean together with the grade for the course and critical comments on the student's work.

4. Honors work is listed on the student's record as "(Subject) 63."

Independent Study

In addition to Honors Work, Yeshiva College also grants credit for Independent Study, which may be done under the following conditions:

A. It may be pursued by any student in good standing, and in any liberal arts subject; it need not be in the student's major and no minimum average is required.

B. It may be done only in the summer, and must be under the supervision of a member of the faculty, either of Yeshiva University or any other accredited institution. Generally it will be an internship project of sore sort, in a laboratory situation.

C. Independent study must require at least the same amount of work as is required in a 2-credit course: a minimum of 96 hours.

The required procedure is as follows:

1. Not later than May 1 the student must submit a full description of his proposed project to the Office of the Registrar on Form M37.
2. The Scholastic Standing Committee considers every application and must give its approval.
3. At the end of the summer the student must submit a report on his work approved by the supervisor. The supervisor must certify the amount of time spent on the project and must evaluate the quality of the work. The report is reviewed by the appropriate department at Yeshiva College, which recommends a grant of credit, subject to approval by the Scholastic Standing Committee.
4. The work is listed on the student's record as "(Subject) 65, Independent Study, 2 credits, grade of P."

Work Load

The normal number of credits for a full semester's work is 15½ to 16½. A full-time student is defined as one who is enrolled for at least 12 credits during a 16-week semester or at least 3 credits during a 4-week session.

Seniors (unless they are on probation), students on the Dean's Honor List (or whose average in a full-time program during the past semester was 3.4 or better), and entering freshmen with superior records approved by the Director of Admissions may register for 17½ credits a semester, provided there is no objection from any University official.

Under no circumstances will any student be given permission to register for *more than 17½ credits a semester* at Yeshiva College (including any credit transferred from any other school of the University or from another institution).

The maximum number of credits which may be earned by any student in a 12-month period (counted as July-June or September-August, at his option) is 43. This includes courses taken in residence, work taken elsewhere, and credit earned by examination (such as College-Level Examination Program and College Proficiency Examination Program).

Students with low averages are subject to restrictions on their work load as described in the section *Probation and Academic Dismissal*, page 39.

Students who are employed may be required to limit their programs.

Credit and Exemption by Examination

See page 10 for information on methods of gaining credit or exemption from coursework by means of examinations.

ADMISSION

Admission regulations pertaining to Yeshiva College alone are given here; those uniformly applicable to all undergraduate schools are given on page 7.

The 16 units required for admission must include the following 12½:

English	4
Additional Language (two years of one language, classical or modern)	2
Social Studies (American History[1] and one additional year of European or World History)	2
Mathematics (college preparatory[2])	2½
Science (General Science, Biology, Chemistry, or Physics	2

The remainder of the required 16 units may be chosen from any college preparatory subjects, with no more than 1½ units to be presented in commercial or minor subjects.

DESCRIPTION OF COURSES

Before reading course descriptions, be sure to consult the information on the terminology of these descriptions on page 28.

---

[1] History 5;6 must be taken if American History is not offered for admission. With special permission, students who lack American History will be permitted to make up their entrance condition by taking the College Entrance Examination Board test in American History and scoring 500 or above. Any student who takes this test after having taken 61 credits of college work (at Yeshiva University or elsewhere) must score at least 550.

[2] College preparatory mathematics should include topics selected from algebra and geometry (demonstrative and analytic). The point of view should be in harmony with contemporary mathematical thought, and emphasis should be placed upon basic concepts and upon the principles of deductive reasoning regardless of the branch of mathematics from which the topic is chosen. Courses designed for other purposes (e.g., consumer mathematics, business mathematics, shop mathematics) are not acceptable.

Arabic

01-02 Elementary Course. (3-0-3). Introduction to the grammar and syntax of classical and modern literary Arabic.

Art

Minor: 15 credits—Art 1 and 14 elective credits.

1 Introduction to Art. (1½-0-1). Development of an appreciation and understanding of the pictorial arts; elements of painting, sculpture, architecture, and other arts, illustrated with color slides; masterpieces of representative styles and periods analyzed as individual works and as expressions of the cultures that produced them.

18 Art From the Renaissance to 1800. (2-0-2). Prerequisite: Art 1 or permission of the instructor. History of painting, sculpture, and architecture from the Renaissance through the 18th century; slide illustrations and visits to the city's museums of art.

19 19th Century Art. (2-0-2). Prerequisite: Art 1 or permission of instructor. Pictorial arts from about 1800 to the turn of the century; successive movements and ideologies in their social and cultural surroundings; neoclassicism, romanticism, realism, impressionism, postimpressionism.

20 20th Century Art. (2-0-2). Prerequisite: Art 1 or permission of the instructor. Contemporary movements: fauvism, expressionism, cubism, futurism, dadaism, surrealism, non-objective art, abstract expressionism, op art; emphasis on the frontiers of art today.

22 Esthetics. (2-0-2). Prerequisite: Art 1 or permission of the instructor. Historical and contemporary concepts of art and criticism; analysis of form, media, and content in painting, architecture, sculpture, music, and literature; the arts in their interrelation.

23 Art Criticism. (2-0-2). Prerequisite: Art 1 or permission of the instructor. Principles and criteria of criticism; methods of analysis and interpretation applied to works of art; museum visits.

24 Jewish Contributions to Art. (2-0-2). Prerequisite: Art 1 or permission of the instructor. Jewish contributions to art and Jewish motifs in art; emphasis on contemporary expression and the art of Israel.

26 American Art. (2-0-2). Prerequisite: Art 1 or permission of the instructor. Art in the United States from colonial times to the present.

28 Problems of Esthetics. (2-0-2). Prerequisite: Art 1. Definitions of art compared; the nature of creativity; taste; changing social attitudes; the position of the artist in society; emphasis on modern and contemporary views.

63 Honors. For the description of this course, see page 40.

Biology

Major: Biology 1 (R & L), 10 (R & L), and an additional 16 credits in Biology; Chemistry 5-6 (R & L), Mathematics 1.1-2.1.

Recommended: Chemistry 13, 14, 37; Physics 1-2 (R & L).

Minor: 24 credits—Biology 1 (R & L), 10 (R & L), and 6 elective credits; Chemistry 5-6 (R & L).

YESHIVA PROGRAM

Yeshiva Program

The Yeshiva Program is a four-year undergraduate course of study in which Talmudic texts and commentaries in the original Hebrew and Aramaic are studied intensively. Although the program does not lead to a degree, specified credit is transferable to B.A. and B.S. programs.

SCHOOL REGULATIONS

Regulations pertaining to the Yeshiva Program alone are given here; those uniformly applicable to all undergraduate schools are given in the section *University Regulations.*

Attendance

Classes in the Yeshiva Program meet Sunday through Thursday mornings, 9 a.m. to 12 noon or 9 a.m. to 2:45 p.m.

Students may be subject to disciplinary and academic penalties if they are absent without acceptable excuse from more than five sessions a semester. Preparation *(hakhanah)* and lecture *(shiur)* are considered separate sessions, so that a student missing a full day without excuse is considered to have two absences. Lateness to any session is considered as half an absence.

Students who are absent from a session and wish to have the absence excused must file their excuse with the Office of the Director within two days of their return to school. A special form, obtainable in that office, is to be used. Ordinarily only a note from a physician will be accepted as an excuse for an absence because of illness.

Grades

The work of each student is graded on the following basis:

A Excellent

B Good

C Fair

D Poor (lowest passing grade)

F Failed

G Dropped by student (counted as failure)

M Missing (no grade reported)

W Withdrew without penalty

Y Year course (June grade applies to both semesters)

Maintenance of Academic Standards

Students are required to maintain satisfactory standards of scholastic performance. Students who fail courses, have generally poor academic records, or who have excessive absences will be put on probation. If the student's record does not improve sufficiently during the course of the next semeste., he may be dropped from the Program.

ADMISSION

Admission regulations pertaining to the Yeshiva Program alone are given here; those uniformly applicable to all undergraduate schools are given on page 7.

Requirements

1. Attendance at Yeshiva College, unless the student already holds a bachelor's degree.
2. Knowledge of Hebrew (modern, medieval, and Biblical), including intensive preparation (at least six years) in the Talmud.
3. Passing Yeshiva Program entrance examinations. Applicants are placed in classes in accordance with previous training and ability.

DESCRIPTION OF COURSES

Talmud

1 through 8 Text and Commentaries. (8 credits a semester). Texts of the Talmud studied intensively with the exegesis of Rashi and Tosafot and other ancient, medieval, and modern commentaries.

ERNA MICHAEL COLLEGE OF HEBRAIC STUDIES

Erna Michael College of Hebraic Studies

Erna Michael College of Hebraic Studies provides comprehensive programs in Hebrew language, literature, and culture for undergraduate men with some background in this area. Established in 1966 in recognition of a major gift by Jakob Michael in memory of his beloved wife, the College is the successor of Teachers Institute for Men, founded in 1917.

Offering a variety of intensive and innovative courses of study, the College is the nation's largest center for the preparation of teachers of Hebraica, training professional personnel for positions of leadership in education and community agency work. It provides the requisite undergraduate preparation for students wishing subsequently to pursue teaching or administrative careers in public and private schools and colleges, as well as other professional and scholarly careers in fields requiring a thorough liberal arts background with special emphasis on Hebrew and Jewish studies.

Erna Michael College curriculums lead to the Bachelor of Arts and Bachelor of Science degrees. Students also may qualify for a Hebraic Studies Diploma or a Hebrew Teacher's Diploma.

All courses in Hebrew language, literature, and culture are taught in Hebrew and provide valuable supplementary training in the utilization of primary sources, research methods, and independent work.

Faculty and students alike seek to create an atmosphere which will provide and promote the highest standards of ethical conduct and scholarship in the achievement of personal and professional goals.

The College is located at the Main Center and profits from its association with several of the University's other schools and their educational resources as well as from

the wealth of public and private educational facilities available in New York.

Erna Michael College is accredited by the National Board of License and is a member of the American Association of Hebrew Teachers Colleges.

CURRICULUMS

Bachelor of Arts

The purpose of the Bachelor of Arts program is to prepare teacher-scholars specially trained to serve as teachers of Hebrew and cognate subjects in grades 7-12. It is open to select students, possessing at least an intermediate knowledge of Hebrew, who are strongly motivated to enter the field of education and are prepared to undertake a rigorous curriculum. Students who complete the program are awarded a Hebrew Teacher's Diploma in addition to the degree of Bachelor of Arts.

The school year is divided into three terms: Fall, Spring, and Summer. While Summer offerings are essentially self-study programs, special materials, including taped lectures, are made available to help the student prepare for end-term examinations and evaluations of his achievements. The third year of schooling is in Israel under the direct supervision of the College.

Intensive personal counseling contacts are maintained with each student, and the student and his counselors periodically evaluate all factors bearing on his continuation in the program. This individual counseling continues as a career and placement service extending into the first few years of employment.

Students who have successfully completed their first year in the program may apply for a special teacher training scholarship equal to the cost of full tuition at Erna Michael College. Applicants will be judged on the basis of school record, academic potential, and personal and professional commitment to the goals of the teacher training program. For the third year this aid will

cover the full cost of tuition, room and board, and round-trip fare to Israel. Freshmen are, of course, eligible to participate in the regular University student financial assistance program.

Degree Requirements

a. Credit requirement: 213 credits (as defined on page 28) distributed as follows:

Bible	41	Music and Art	2
Education	22	Philosophy	7
English	9	Psychology	9
Health Ed	1	Science	6
Hebrew	28	Speech	3
History	34	Talmud	37
Jurisprudence	9	Electives	5

The written approval of the Dean is necessary for any waiver of requirement or course substitution; this request must be made on Form R15 before taking the substitute course.

b. Residence requirement: Students must have attended an institution of higher education at least eight semesters. They must be in full-time residence of Erna Michael College at least four semesters, two of which must be in the senior year, taking at least 21 credits each semester. Regarless of how much transfer credit is granted, at least half the total number of required credits must be taken at Erna Michael College.

c. Grade requirements: A minimum cumulative average of 75 in all studies.

d. Administrative requirements:

1. Approbation of the faculty.
2. Completion of all requirements within six years of the date of admission, excluding time lost because of serious illness or service with the armed forces.
3. Filing of an Application for Degree during the registration period of the semester in which the student completes all requirements.

Program of Study

For the convenience of students the normal program of study for the Bachelor of Arts degree is given below:

FIRST YEAR

Fall Term		Spring Term	
Bible 1	4	Bible 2, 12	6
English 1.1	3	Health Ed 2	½
Health Ed 1	½	Hebrew 2	4
Hebrew 1, 20	6	History 2	3
History 1	3	Jurisprudence 2	3
Jurisprudence 1	3	Speech 1	3
Talmud 1.1, and 1.2 or 1.3	4-5	Talmud 2 or 2.3	3

Summer Term

Bible 2.4	2
Talmud 2.4	2

SECOND YEAR

Fall Term		Spring Term	
Art 1	1	Education 2	3
Education 1	3	English 4	3
English 3	3	Hebrew 4	3
Hebrew 3	3	History 2.2	4
History 1.2	4	Philosophy 2.1	2
Music 1	1	Psychology 1	3
Philosophy 1.1	2	Science 2a	3
Science 1a	3	Talmud 4.3	3
Talmud 3.3	3		

Summer Term

Bible 4.4	2
Hebrew 4.4	2
Talmud 4.4	2

ISRAEL PROGRAM—THIRD YEAR

Fall Term		Spring Term	
Bible 91, 93, 95	10	Bible 92, 94	6
Hebrew 91	4	Education 91	2
History 93, 95	7	Hebrew 92, 94	4
Jurisprudence 91	2	History 94, 96	7
Talmud 91	8	Jurisprudence 92	2
		Talmud 92	8

Summer Term

Bible 6.4	2
Education 6.4	2
Hebrew 6.4	2
Talmud 6.4	2

FOURTH YEAR

Fall Term		Spring Term	
Bible 3, 31	5	Bible 4, 32	4
Education 3, 4	6	Education 9	6
History 11	2	History 12	2
Philosophy 5	3	Psychology 16	3
Psychology 35	3	Sociology 12	2
Talmud 9	2	Electives	5

Bachelor of Science

The Bachelor of Science program is intended for students interested in pursuing a course of study in the area of Hebrew language, literature, and culture without necessarily entering the field of education. Each student must select a major and a minor, or three minors. Subjects in which a student may major or minor are:

Bible (page 75)
Education (minor only; page 76)
Hebrew (page 77)
History (page 78)
Jurisprudence (minor only; page 79)
Philosophy (page 80)
Sephardic Studies (page 81)
Talmud (no minor necessary; page 81)

Regardless of how much transfer credit is granted, at least half of the total number of credits required in the major and/or must be taken at Erna Michael College.

The written approval of both the senior professor of the major subject and the Dean is necessary for any waiver of requirements or course substitution; this request must be made on Form R15 before taking the substitute course.

Degree Requirements

a. Credit requirement: 165 credits[1] (as defined on page 28).

b. Residence requirement: Students must have attended an institution of higher education at least eight semesters. They must be in full-time residence at Erna Michael College at least four semesters, two of which must be in the senior year, for a minimum of 76 credits at Yeshiva University.

c. Grade requirement: A minimum cumulative average of 75 in all studies; a minimum grade of 75 in all courses used to meet the requirements in the student's major; a cumulative average of 75 for each minor, with no individual grade in that minor below 70.

d. Examination requirement: A comprehensive examination in the major and a qualifying examination in each minor.

e. Administrative requirements:

1. Approbation of the faculty.
2. Completion of all requirements within six years of the date of admission, excluding time lost because of serious illness or service with the armed forces.
3. Filing of an Application for Degree during the registration period of the semester in which the student completes all requirements.

Required Courses

The following courses are required of all students:

[1] No credits in the area of Hebrew language, literature, and culture taken at Erna Michael College used to meet this requirement may be counted toward any other bachelor's degree at Yeshiva University.

Bible 1, 2, 11, 12, 13, 14	18
English 1.1, 3-4	9
Health Education 1; 2	1
Hebrew 1, 2, 3, 4	14
History 1.2; 2.2	8
Jurisprudence (2 courses)	4-7
Natural Sciences	6
Biology, Chemistry, Mathematics or Physics	
Philosophy 1.1, 2.1	4
Speech 1	3
Social Sciences	6
Chosen from Economics 1,2; History 1; 2; 5; 6; Philosophy 1; 2 10; 11; Political Science 1.1; 2.1; Psychology 1;2; Sociology 1;2; 15; 36	
Talmud 1.1, 1.2 or 1.3,2 or 2.3, or 3.3, 4 or 4.3	12-13
Additional credits in liberal arts courses (outside the field of Hebrew language, literature, and culture) in the areas noted above and/or foreign languages	33

Program of Study

For the convenience of students the normal program of study for the first two years of the Bachelor of Science degree is given below:

FIRST YEAR

Fall Term		Spring Term	
Bible 1, 11	6	Bible 2, 12	6
English 1.1	3	Health Ed 2	½
Health Ed 1	½	Hebrew 2	4
Hebrew 1	4	Social Science	3
Social Science	3	Speech 1	3
Talmud 1.1, 1.2 or 1.3	3-4	Talmud 2 or 2.3	3

SECOND YEAR

Fall Term		Spring Term	
Bible 13	3	Bible 14	3
English 3	3	English 4	3
Hebrew 3	3	Hebrew 4	3
History 1.2	4	History 2.2	4
Natural Science	3	Natural Science	3
Social Science	3	Social Science	3
Talmud 3 or 3.3	3	Talmud 4 or 4.3	3

Diplomas

Hebraic Studies Diploma

The Hebraic Studies Diploma is awarded if the following requirements are completed:

a. Credit requirement: 96 credits (as defined on page 28), including courses in Hebrew language, literature, and culture required of all students, and a major or two minors. These credits may serve as transfer credits to Yeshiva College under the procedure outlined on page 36.

b. Residence requirement: Students must have attended an institution of higher education at least eight semesters. They must be in full-time residence at Erna Michael College at least four semesters, two of which must be in the senior year, for a minimum of 58 credits at Erna Michael College.

c. Grade requirement: A minimum cumulative average of 75 in all studies and a minimum grade of 75 in all courses used to meet the requirements in a student's major. Students presenting two minors must have a cumulative average of 75 in each minor, with no individual grade in that minor below 70.

d. Examination requirement: A comprehensive examination in the major or a qualifying examination in each minor.

e. Administrative requirements:

1. Approbation of the faculty.
2. Completion of all requirements within six years of the date of admission, excluding time lost because of serious illness or service with the armed forces.
3. Filing of an Application for Degree during the registration period of the semester in which the student completes all requirements.

Hebrew Teacher's Diploma

If a student presents 110 credits including, in addition to the courses for the Hebraic Studies Diploma, the courses in education and psychology listed below, he may be awarded a Hebrew Teacher's Diploma if the Hebraic Studies Diploma has not been previously awarded. Such students may use education as a minor in fulfilling the requirement listed in a. above. Holders of the Hebrew Teacher's Diploma will receive, on application to the National Board of License and/or regional licensing boards, a license to teach in schools under the jurisdiction of those boards.

Education 1, 2, 3, 4, 9
Psychology 1, 16

Preparatory Class

For students with inadequate background in secondary level Bible, Hebrew, and Talmud, Erna Michael College has a preparatory (*mekhinah*) class which offers the following program:

Bible 01;02;07;08
Hebrew 01;02
Talmud 01,02

Credit for these courses may be transferred to Yeshiva College. For application of credit toward an Erna Michael College degree, see individual course listings. Preparatory students are classified as Provisional students and may not avail themselves of the P/F grading option. They are expected to be ready to enroll in the regular program at the end of one year and, therefore, no student may remain in the preparatory class for more than one year.

Junior Year Abroad

See *Junior Year Abroad*, page 26.

The Bachelor of Arts program includes a third year of study in Israel, and qualified students are awarded full

scholarships covering fare, tuition, and room and board for that year.

Abraham Mazer Scholarship

Erna Michael College annually awards a scholarship at Hebrew University to an Erna Michael College graduate who desires to qualify on his return as a teacher of Hebrew and cognate studies on the secondary school or college level. Established by the late Abraham Mazer, the scholarship includes $1,000 for maintenance and $250 toward tuition.

Applicants must be top-ranking students at Erna Michael College, and must give satisfactory evidence of their intention to enter the field of Jewish education in the United States.

Application must be made by February 1 to the Dean of Erna Michael College, for award the following school year.

SCHOOL REGULATIONS

Regulations pertaining to Erna Michael College alone are given here; those uniformly applicable to all undergraduate schools are given in the section *University Regulations.*

Attendance

Classes in Erna Michael College meet Monday through Thursday mornings, generally between 9 a.m. and 1 p.m., although certain classes meet in the early afternoon.

Students are expected to attend all their scheduled class sessions and College exercises and to be present promptly at the beginning of the hour, unless prevented from doing so by illness or other compelling cause.

A record of each student's attendance in each class is kept, and each absence must be excused. Generally a student's attendance record is taken into account whenever there may be occasion to determine his status in the

University. A statement must be filed with the school office within 10 days of the student's return to school after being absent, if the student wishes the absence to be excused. Ordinarily only a physician's note will be accepted as an excuse for an absence because of illness.

Permission to register late in a course does not in itself excuse the student's absence from the classes already held. A student must file notes of excuse to cover the dates missed.

Unexcused absences without penalty are permitted up to twice the number of weekly course meetings. Beyond this total the penalty will be a grade reduction of one point for each of the first two unexcused absences, two points for each of the next two, and three points for each additional absence. Reductions for excess absences will not be made in grades of 90 or better. Lateness of 5-15 minutes counts as one half of an absence; of more than 15 minutes, as a full absence.

If a class meets for two periods a day, each absence counts as two.

Students on probation must account for each absence and are subject to penalties for even one unexcused absence.

The penalties described above will not be assessed against a student in the semester following the achievement of one of the following conditions: a) a composite Erna Michael College average of 90% for one semester; b) a composite Erna Michael College average of 85% for the previous two semesters. This ruling does not apply to Talmud courses or to Hebrew 01;02, 1, 2, 3. Where applicable the privilege will continue, on a semester by semester basis, as long as one of the above conditions is met.

Continued absences without excuse will result in the dropping of the student from the course with a grade of G. In addition, such students render themselves liable to being placed on probation at the end of the semester.

Flagrant cases of absence in several courses may necessitate withdrawal from the College.

If a student is absent or seriously incapacitated through illness for a considerable portion, but less than half, of a semester, his schedule will ordinarily be reduced.

If a student is absent from any course for any cause for more than a half a semester, the course will not be counted and the student will not be allowed to take any of the examinations. He will receive a W or G in the course (depending on whether the absences are excused or not).

Grades

The work of each student is graded on the following basis:

90%-up	= A =	Excellent
80-89%	= B =	Good
70-79%	= C =	Fair
60-69%	= D =	Poor (lowest passing grade)
Below 60%	= F =	Failed
	G =	Course dropped without permission (counted as failure)
	M =	Missing (no grade reported)
	P =	Passed (see below)
	T =	(followed by number below 90) = Tentative grade
	W =	Withdrew without penalty

Tentative grades are explained on page 25.

P/F System

Each semester, during the period listed in the academic calendar, a full-time student may designate one course to be marked on a P/F basis. Regulations governing usage and application of the P/F system may be found on Form T28.4, available in the Office of the Registrar.

Dean's List of Honor Students

Each year the College issues a list of excellent students whose averages are 85% or more. This list is known as the Dean's List of Honor Students.

Inclusion on the Dean's List of Honor Students becomes part of the student's permanent record.

Honors at Graduation

Honors at graduation, for all degrees and diplomas, are awarded as follows:

Cum laude: 85% average and the approbation of the faculty

Magna cum laude: 90% average and the approbation of the faculty

Summa cum laude: 92% average and the unanimous approbation of the faculty

Probation and Academic Dismissal

A student whose academic average for any semester falls below 70% is placed on probation. If his average falls below 70% two semesters in succession, or three semesters non-consecutively, he receives an academic dismissal. A student will also be dismissed if he fails all his courses in a semester. Students may also be placed on probation for any of the following causes: unsatisfactory attendance record, unsatisfactory conduct, admission with a condition. Students on probation are required to reduce their program in any other school (e.g., Yeshiva College) to 12% (or, with permission, 13½) credits—including credits transferred from Erna Michael College—as a condition for remaining in Erna Michael College. They may not engage in any extracurricular activity and may not hold any job for pay without written permission. They are also required to attend all classes and College exercises and are subject to penalties for every unexcused absence. Such students may also be declared ineligible for financial assistance.

Probation serves as a serious warning to the student and his parents or guardian that his record is unsatisfactory and that significant improvement is expected. If such improvement does not occur in the semester during which the student is on probation, he is dropped from the College.

Credits for Enrollment in Classes

In order to be enrolled in any class the student must have completed all required courses of the previous class, and at least the following percent of the credits required in the program in which he is registered:

Sophomore	21%
Junior	47%
Senior	73%

A student will not be graduated until he has completed all his requirements and all his indebtedness to the University has been discharged.

Transfer of Credit to Yeshiva College

For procedures applicable to the transfer of credit from Erna Michael College to Yeshiva College, see page 36.

Work Load

The number of credits for a full semester's work varies from program to program. Students enrolled in a bachelor's program at Yeshiva College, or any other institution of higher education, while attending Erna Michael College, are under no circumstances permitted to complete the requirements for two bachelor's degrees in a four-year period. They may, however, complete their requirements at Erna Michael College during a fifth year of study, and the University will waive tuition for those credits which are lacking for an Erna Michael degree.

A full-time student is defined as one enrolled for at least 16 hours per week in a 16-week semester.

Students who are employed may be required to limit their program.

ADMISSION

Admission regulations pertaining to Erna Michael College alone are given here; those uniformly applicable to all undergraduate schools are given on page 7.

To qualify for admission, a student must be graduated from a Jewish all-day high school or have completed the equivalent work. Candidates may also be considered for Early Admission.

Erna Michael College Entrance Examination

Erna Michael College Entrance Examinations are required and are used for admission and placement purposes. Usually given at the College in December and March, they test a student's proficiency in Bible, Hebrew, Jurisprudence, and Talmud. Early Decision applicants must request an early examination.

College Board

Students applying *only* to Erna Michael College are required to take the following tests given by the College Entrance Examination Board: [1]

1. Scholastic Aptitude Test.
2. Hebrew Achievement Test, given only in January.

DESCRIPTION OF COURSES

Before reading course descriptions, be sure to consult the information on the terminology of these descriptions on page 28.

Arabic

1,2 Elementary Arabic. (3-0-3). Introduction to the grammar and syntax of classical and modern literary Arabic.

Bible

Major: Bible 1; 2; 3; 4; 5, 11 through 14, 35, and an additional 10 credits in Bible; Hebrew 10; 18.1; comprehensive examination.

Minor: Bible 1; 2, 11 through 14, and an additional 12 credits; qualifying examination.

[1] Foreign students should see FOREIGN APPLICANTS, page 11.

Note: Bible 1 is a prerequisite or corequisite for Bible 2 and above.

01;02 Pentateuch I; II. (4-0-4). Cannot be credited toward B.A. or B.S. degree or Bible major/minor. Textual study of the Pentateuch stressing Biblical Hebrew and selected reading of commentaries.

07;08 Introduction to Early Prophets. (2-0-2). Credits earned for these courses may not be used for Bible major/minor but may be counted as equivalent of Bible 11. Textual study of the Early Prophets and commentaries.

1 Introduction to Biblical Exegesis. (4-0-4). Structure and format of Biblical text, history and analytical methods of classical exegetes, the 13 *middot*, translations of the Bible.

2 Biblical Narrative I. (3-0-3). Narrative portions of the Bible, particularly events described in Genesis.

(2.4 Hagiographs II.) (0-6-2). The Books of Esther, Ruth, Lamentations, I and II Chronicles.

3 Pentateuch III. (3-0-3). Man and society in the Bible; laws governing the society of man, as found in various portions of the Pentateuch, particularly Exodus 20-23, Leviticus 19, 20, 24, 25, and Deuteronomy 12-25.

4 Pentateuch IV. (2-0-2). Man and the Divine in the Bible; the laws of purity, sacrifice, the Sabbath, and Festivals.

(4.4 Books of the Second Commonwealth.) (0-6-2). The Books of Haggai, Zechariah, Malachi, Ezra, Nehemiah. No credit is given for both this course and Bible 25, 26.

5 Pentateuch V. (2-0-2). Poetry of the Pentateuch, including classical commentaries.

6;7 Ramban on Pentateuch. (2-0-2). Prerequisite: Bible 2, First semester; Genesis; second semester; Exodus. Intensive analysis of the commentary of the Ramban (Nachmanides); emphasis on method, terminology, and similarities to, and differences from, other exegetes; references to the Ramban's commentary on other Books.

(6.4 Solomonic Books.) (0-6-2). The Books of Solomon: Proverbs, Ecclesiastes, Song of Songs.

8;9;10 Advanced Biblical Exegesis. Bible 8 (2-0-2). Bible 9 (3-0-3). Bible 10 (3-0-3). Prerequisite: Bible 2 and junior status. Survey of the exegetes, analyzing historical background, style, and methodology; opportunity for independent manuscript study; first semester; exegetes of Northern French School of the 10th-14th centuries, with emphasis on historical background and methodology; second semester: exegetes of Spain, especially Abravanel, Ibn Ezra, Radak, Ramban; third semester (prerequisite or corequisite: Bible 8 or Bible 9): the modern period.

11 Early Prophets. (2-0-2). Survey of the Books of Joshua, Judges, Samuel, and Kings.

12 Minor Prophets. (3-0-3). Prerequisite: Bible 07;08 or 11. Survey of the Books of Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, and Zephaniah.

13 Later Prophets. (3-0-3). Prerequisite: Bible 12. Survey of the Books of Isaiah, Jeremiah, and Ezekiel.

14 Hagiographa I. (3-0-3). Prerequisite: Bible 12. Survey of the Hagiographa.

15 Book of Samuel. (2-0-2). Prerequisite: Bible 13. Intensive analysis of I and II Samuel.

16 Book of Kings. (2-0-2). Prerequisite: Bible 13. Intensive analysis of I and II Kings.

JAMES STRIAR SCHOOL OF GENERAL JEWISH STUDIES

James Striar School of General Jewish Studies provides comprehensive four-year programs in Hebrew language and literature and in the heritage, history, and philosophy of Judaism for men attending Yeshiva College who enter with little background in Jewish studies. Students progress from basic to more advanced materials in systematic stages. The School was established in 1956 as the Jewish Studies Program and renamed in 1965 to

honor the benefaction of the Striar family in memory of their father, James Striar.

The quality of the School's courses attracts many young men seeking self-improvement and enriched background. The program provides a good preparation for students wishing subsequently to pursue professional and scholarly careers in fields requiring a thorough liberal arts background with special emphasis on Hebrew and Jewish studies.

Students who complete the requirements listed below receive the Associate in Arts degree with a major in Hebrew language, literature, and culture.

The School's location at the Main Center affords stimulating association with several of the University's other undergraduate schools, as well as graduate schools and affiliates, and provides easy accessibility to the major resources of the institution.

CURRICULUM

Associate in Arts

Degree Requirements

a. 120 credits in Hebrew language, literature, and culture distributed as follows: [1]

Bible	24
Hebrew	12
Jewish History	4
Judaic Studies	12
Talmudic Literature	30
Additional Courses in the Above Areas	38

b. A cumulative average of 2.5 in the above work, and an average of at least 1.5 for each semester of attendance. These standards also apply to any work done elsewhere with special permission.

[1] Advanced standing of up to 32 credits for previous study may be granted by examination after admission. Unless special permission is received, all other required credits must be completed at James Striar School.

c. The following additional credits in the liberal arts and sciences: [2]

English	12
English 1.1, 3-4; Speech 1	
Social Sciences [3]	6
Chosen from Economics 1,2; History 1;2; Philosophy 1;10;11; Political Science 1.1,2.1; Psychology 1,2; Sociology 1,2	
Foreign Language	6
One year of French, German, Greek, Latin, Russian, or Spanish	
Natural Sciences	6
One year of Biology, Chemistry, Physics, or Mathematics	
Health Education	2
Chosen from Health Education 1 through 10	

d. Completion of at least six semesters in residence at James Striar School, taking at least 12 credits each semester. At least 24 of the last 35 credits must be taken at James Striar School.

e. Approbation of the faculty.

f. Completion of all requirements within six years of admission.

[2] Courses specified are given at Yeshiva College. With prior written permission, equivalent courses may be taken at any other accredited college. The procedure for securing such permission is given on page 26.

[3] Students who demonstrate good cause may be permitted to substitute a different social science for half of this requirement; applications for a substitution must be made in writing on Form M37, available in the Office of the Register, before the course is taken.

g. Filing of Application for Degree during the registration period of the semester in which the student completes all requirements.

Program of Study

For the convenience of students the normal program of study for the first two years of the Associate in Arts degree is given below:

First Year	Credits Each
Bible 011;012	4-6
Hebrew 011,012 *or* 013,014 *or* 015,016	4
Judais Studies 011,012	2
Judaic Studies 013,014 *or* Talmudic Literature 011, 012	2-4
Judaic Studies 017,018	2
Second Year	
Bible 021;022	4
Hebrew 021,022 *or* 023,024 *or* 025,026	2
Judaic Studies 021;022	2
Talmudic Literature 021-022 *or* 025;026	6
Talmudic Literature 023;024 *or* 027;028	2

Where alternate courses exist, placement is made on the basis of the student's level (see page 87).

SCHOOL REGULATIONS

Regulations pertaining to James Striar School alone are given here; those uniformly applicable to all undergraduate schools are given in the section *University Regulations.*

Attendance

Classes in James Striar School meet Monday through Thursday mornings. Each morning is divided into two sessions of two academic hours each. The first session is 9-10:40 a.m. and the second 11 a.m.-12:40 p.m.

Students are expected to attend all their scheduled class sessions and School exercises and to be present promptly

at the beginning of the hour, unless prevented from doing so by illness or other compelling cause.

A record of each student's attendance in each class is kept, and each absence must be excused. Generally a student's attendance record is taken into account whenever there may be occasion to determine his status in the University. A statement must be filed with the School office within 10 days of the student's return to School after being absent, if the student wishes the absence to be excused. Ordinarily only a physician's note will be accepted as an excuse for an absence because of illness.

Permission to register late in a course does not in itself excuse the student's absence from the classes already held. A student must file notes of excuse to cover the dates missed.

No penalties are imposed for unexcused absences that do not exceed twice the number of class meetings per week. (In courses that meet only once a week, a maximum of four unexcused absences will be allowed.) The first additional unexcused absence will incur a reduction of one grade in the course. Subsequent absences will result in a further reduction of one grade if they exceed the number of class meetings per week. There is no reduction from an A grade.

Lateness is reported, recorded, and properly noted by the administration, but there is no reduction in grade.

If a student is absent from any course for more than half a semester, the course will not be counted and the student will not be allowed to take any of the examinations. He will receive a W or G in the course (depending on whether the absences are excused or not).

Only full-time students are admitted and they must take 16 credits each semester. Only on the recommendation of a physician or for other compelling cause is a student permitted, with written approval of the Director, to take a lighter program of no less than 12 credits.

Examinations

A two-hour final examination and at least two one-hour tests are required in each course, each semester. A term paper may be substituted for one examination.

Grades

The work of each student is graded on the following basis:

A Excellent	G Course dropped by student (failure)
B Good	M Missing (no grade reported)
C Fair	P Passed (see below)
D Poor	T (followed by B, C. D, or F) Tenative grade
F Failed	W Withdrew without penalty

Withdrawal from courses requires the permission of the Director. Unless this permission is obtained in writing, the student receives a G, equivalent to failure, in those courses from which he has withdrawn. Except under unusual circumstances, withdrawal from a course is not allowed during the last month of sessions.

Tentative grades are explained on page 25.

Pass/Fail System

Students may select courses to be graded Pass or Fail, subject to the following conditions:

1. The student must be a Regular full-time student.
2. He must be above the freshman year and in good standing (not on academic or disciplinary probation).
3. Only one course each semester, not exceeding 2 credits, may be selected.
4. The course must be a James Striar School course, and not one transferred from any other school or program of the University.
5. The student must make his selection during the period listed in the academic calendar and is not allowed to change at a later date.

6. A grade reported by the instructor as A, B, C, or D is recorded as P, and does not count in the student's average; an F is recorded and counted in computing the average.

Academic Average

Each grade has a numerical value, as follows: A=4; B=3; C=2; D=1; F, G=0. When the numerical value is multiplied by the credit value of the course, the resulting figure is known as the number of quality points.

The student's average rating is computed by dividing the number of quality points earned by the total number of credits completed, including courses failed. The average is rounded to the third decimal place.

Grades achieved at other schools of Yeshiva University or at other institutions of learning are not averaged in with a student's record at James Striar School; only credit is granted on transfer.

Director's Honor List

Each year, full-time students who have achieved a scholastic average of distinction are included on the Director's Honor List, which classifies those listed as follows:

"With Honor": 3.400-3.599 average
"With High Honor": 3.600-3.799 average
"With Highest Honor": 3.800-above

Inclusion on the Director's Honor List becomes part of the student's permanent record.

Honors at Graduation

To receive honors at graduation, students must achieve the following cumulative averages: *cum laude*, 3.400; *magna cum laude*, 3.600; *summa cum laude*, 3.800. Higher averages may be required of students who have taken fewer than 94 credits at James Striar School.

Receipt of degrees with honors is not automatic; candidates must receive the approbation of both the faculty and the President. For *summa cum laude* candidates the approbation must be unanimous.

Credits for Enrollment in Classes

The minimum number of credits required for enrollment in each class is as follows:

Class	Credits
Upper Freshman	12
Lower Sophomore	27
Upper Sophomore	42
Lower Junior	57
Upper Junior	72
Lower Senior	88
Upper Senior	104
Graduation	120

No student, however, may be enrolled as a sophomore until he has removed all entrance conditions and completed all required freshman courses; and any student who is at any time carrying a sufficient number of credits to complete the total required for graduation is registered as an upper senior. A student will not be graduated until he has completed all his requirements and all his indebtedness to the University has been discharged.

Transfer of Credit to Yeshiva College

For procedures applicable to the transfer of credit from James Striar School to Yeshiva College, see page 36.

Probation

A student whose academic average for any semester falls below 1.5 is placed on probation. If his average falls below 1.5 for two semesters in succession, or three semesters nonconsecutively, he is subject to academic dismissal. Students who are on probation may not engage in any extracurricular activity and may not hold any job for pay without written permission. They are also required to attend all classes and School exercises and are subject

to penalties for every unexcused absence. Such students may also be declared ineligible for financial assistance.

Disciplinary Action

Grounds for dismissal for disciplinary reasons are given on page 27. A student charged with an offense of a moral or ethical nature is given a hearing before the Student-Faculty Committee, which may recommend dismissal of the charge, probation, voluntary withdrawal from the School, or dismissal for disciplinary reasons.

ADMISSION

Admission regulations pertaining to James Striar School alone are given here; those uniformly applicable to all undergraduate schools are given on page 7.

James Striar School requires every applicant to report for an interview with the Director of the School. This provides an opportunity to evaluate the applicant's background in Jewish studies and to discuss fully the nature of the School and its suitability for him. Where distance or other circumstances make it a serious hardship for the student to come to New York, special arrangements can be made.

First-year courses presuppose the student's ability to read vowelized Hebrew text and to write the Hebrew alphabet in cursive script. Students who do not meet these requirements on admission will be given assistance during the summer before they start classes to bring them up to the required level.

Attendance at Yeshiva College is required unless the student already holds a bachelor's degree.

STERN COLLEGE FOR WOMEN

Stern College for Women

Stern College is the University's college of arts and sciences for women. It was established in 1954 through a major gift by Max Stern, prominent community leader and vice chairman of the University's Board of Trustees, in memory of his parents, Emanuel and Caroline Stern.

The College is the only one of its kind, offering curriculums designed to prepare modern young women for careers, graduate study, and increasing responsibilities in the community. It embodies the unique concept that the values of Judaism have a meaningful relevance to the general culture of Western civilization.

In addition to the curriculums leading to the Bachelor of Arts degree, students participate in programs of Jewish studies providing intensive analysis of classic texts in the Hebrew and Aramaic originals. Designed to deepen ethical and philosophical insight and values, they also afford valuable supplementary training in research methods and independent work. Students may also receive the Jewish Studies Certificate and Hebrew Teacher's Diploma.

The original College building contains laboratories, Siegfried Stern Periodical Room, Louis Koch Auditorium, lounge, and offices. Adjacent to this structure, a new $4,500,000, 11-story building has been erected housing classrooms, language laboratory, Midtown Center Library, lecture halls, dining hall, and administration and faculty offices. The College's central location affords easy access to New York's great cultural features.

Mindful of its responsibilities as a liberal arts-oriented college in an urban center, Stern College has incorporated a broad set of educational programs, student services, and extracurricular activities to meet the special needs of the individual student. It is aware of the opposing pressures of a society driving toward greater specialization and technology, and of the student seeking order and purpose for herself and a totality of meaning

for her life. Students, faculty, and administration are in search of sophisticated solutions to these increasingly complicated problems.

CURRICULUMS

Bachelor of Arts

Majors

Each student must select one subject as a major. She must have the permission of the senior professor of the subject, and must also obtain this professor's approval of her planned course of study. Subjects in which the student may major are listed below, with the page number where the requirements for that subject are given:

Biology, p. 99
Chemistry, p. 100
Education, p. 101
English, p. 101
French, p. 103
Hebraic Studies, p. 92
History, p. 105
Jewish Studies, p. 92
Mathematics, p. 107
Philosophy, p. 109
Political Science, p. 110
Premedical-Predental Studies, p. 93
Psychology, p. 112
Sociology, p. 112
Shaped Major, p. 93

Interdepartmental Majors

Hebraic Studies

A Hebraic Studies major must complete 24 credits, excluding any used to meet general degree requirements, in one or two of the following areas: [1]

a. Hebrew courses 9 through 69
b. Hebrew courses 79 through 99
c. History courses 79 through 99

[1] At least 15 credits must be taken in the junior and senior years. With permission of the department, one or two courses in other areas may be counted toward major requirements.

Jewish Studies

A Jewish Studies major must complete 24 credits, excluding any used to meet general degree requirements, in one or two of the following areas:

a. Hebrew courses under 70
b. Hebrew courses 70 through 99
c. History courses 71 through 99
d. Philosophy courses 31 through 69
e. Philosphy courses 71 through 99

At least 12 of the credits used to meet the major requirements must be concentrated in one of the following areas: Hebrew 9 through 69, or 79 through 99; History 79 through 99; Philosophy 41 through 69, or 84 through 99 (Philosophy 6 may also be used to meet this requirement).

Premedical-Predental Studies

The following courses are required for the premedical-predental major: Biology 1-2; Chemistry 1.1-2.1 and 13-14; Mathematics 3-4; Physics 1-2.

Shaped Major

In addition to the majors listed above, it is possible for a student to arrange a major—either interdisciplinary or in one field—specifically designed to meet her needs and interests. Such a program must be approved and supervised by a faculty committee. Interested students should apply in writing to the Office of the Dean.

Pre-law Training

Students planning to enter law school after college may major in any subject. However, a social science is recommended.

Regardless of how much transfer credit is granted a student, at least 18 credits in the major must be taken at Stern College.

The approval of both the senior professor of the subject in which the student is majoring and the Office of the Dean are necessary for a waiver or substitution of one course for another in the requirements for graduation or for the major; this request must be made on Form R15 before taking the substitute course.

Only courses in which grades of C or better were earned may be used to meet the requirements in a student's major. (This applies only to courses in the subject itself, and not to correlate requirements.)

Degree Requirements

a. Credit requirement: 128 credits (1 credit represents one period of lecture or recitation, or two periods of laboratory work, per week for one semester, unless otherwise stated in the course listing. A semester consists of 15 weeks; a period, of 50 minutes).

b. Residence requirement: Students must be in residence at Stern College at least four semesters, taking at least 12 credits each semester, and must complete at least 58 credits at Stern College. At least 24 of the last 35 credits must be taken at Stern College.

   A superior student who is admitted to a professional school at the end of her junior year at Stern College will be eligible for a bachelor's degree from the College upon satisfactory completion of the first year of the professional school program, provided that she is admitted to the Professional Option plan. Full information is available in Form M65.

c. Grade requirement: An average of 2.0 or better in all studies and a grade of C or better in all courses in the major presented for the major requirement.

d. Administrative requirements:

   1. Approbation of the faculty.
   2. Completion of all requirements within six years of the date of admission, excluding time lost because of serious illness.

3. Filing of an Application for Degree during the registration period of the semester in which the student completes all requirements.

The following courses are required of all students:

Courses	Credits
Biology or Chemistry or Physics 1-2 or 1.1-2.1	8
English 1.1, 3-4	9
[1] Health Education, two credits chosen from 1,2,3,4,10	2
[2] History 1,2	6
Philosophy 1 or 5 or 11 or 12	3
Speech 1.1	3
Eight credits chosen from the following: Art 1 (or 1.1), Mathematics 1-2 (or 3-4), Music 1 (or 1.1), Political Science 1.1 (or 2.1), Psychology 1, Sociology 1 (or 9)	8
Hebrew language, literature, and culture (see below)	varies
Another foreign language (see below)	0-18

Foreign Language Requirement

Each student must complete a foreign language in addition to Hebrew through the level of course 4 or its equivalent. The courses to be taken are as follows:

Number of Years Taken in High School	Courses Normally Taken at Stern College	Because of Repetition, No Credit Will Be Given for Courses
0	01-02, 1-2, 3-4	—
1	02, 1-2, 3-4	—
2	1-2, 3-4	01-02
3	2, 3-4	01-02
4	3-4	01-02, 1-2

Students who have had 1-1½ years of a language in high school are normally qualified to begin with the 02 course, but if they prefer they may begin with 01. Students who have had 3-3½ years of a language in high school are

[1] Each student must complete a semester course in swimming or pass a swimming test.

[2] If American History is not offered for admission, History 41 or 42 or 43 or 44 is required in addition.

normally qualified to begin with the 2 course, but if they prefer may begin with 1; if they register for any lower course, they will receive no credit for it. Students who have had 4 years of a language in high school may (register for, but will receive no credit for, any course numbered below 3.

A student proficient in a foreign language in addition to Hebrew at a level equivalent to course 4 or higher has met the College's foreign language requirement.

Students who plan to do graduate work are advised to consult the catalogs of the graduate schools they are interested in before choosing their foreign language.

Hebrew Language, Literature, and Culture Requirement

1. The College offers courses in this area for those with little or no background, for those with some background, and for those with an extensive background. Before registration, each student takes a placement examination and is assigned to the appropriate level of study: elementary, intermediate, or higher. A student who has been placed on one level may register for, but will not receive credit for, courses on a lower level.
2. Each student must complete a total of 20 semester-courses in this area, and at least 2 in each of the following fields:
   a. Hebrew courses numbered under 70
   b. Hebrew courses numbered over 70
   c. History courses numbered over 70
   d. Philosophy courses numbered over 30
3. The requirement of 20 semester-courses averages to 5 a year. More may be taken if desired (subject to the limitations on page 97); and at least 1 must be taken every semester of attendance, even if the requirement of 20 courses has already been met.
4. A student in residence less than 4 years must complete courses in this area equal to the number of

years multiplied by five. All other requirements remain as above.

Jewish Studies Certificate and Hebrew Teacher's Diploma

Students who earn the Bachelor of Arts degree may also earn a Jewish Studies Certificate or Hebrew Teacher's Diploma if they have taken sufficient courses in Hebrew language, literature, and culture above the degree requirement. Full information is given on Form P2.3, available in the Office of the Registrar.

Typical Freshman-Year Program

	credits each
English and Speech	3
Health Education	½
Hebrew Language, Literature, and Culture (two or three courses)	5-9
Two or three of the following:	
Science	4
Language	3
History	3
Mathematics	3-4

For maximum credits permitted, see page 97.

SCHOOL REGULATIONS

Regulations pertaining to Stern College alone are given here; those uniformly applicable to all undergraduate schools are given in the section *University Regulations*.

Attendance

Classes in Stern College meet Monday through Friday.

Attendance at lectures is not compulsory for sophomores, juniors, and seniors who are not on probation, and for freshman Honors Admittees. However, an instructor may require that on a particular day a student submit a written assignment, deliver a recitation, perform certain laboratory tasks, and the like.

Students on probation and freshmen are bound by the following regulations:

Students are expected to attend all their scheduled class sessions and college exercises and to be present promptly at the beginning of the hour, unless prevented from doing so by illness or other compelling cause. In particular, students should avoid being absent immediately before or after a holiday or vacation; such absences are regarded as interfering with the collective interest of the College. Generally a student's attendance record is taken into account whenever there may be occasion to determine her status in the University.

A record of each student's attendance in each class is kept. A statement should be filed with the Office of Student Services within 10 days of the student's return to school after being absent, if the student wishes the absence to be excused. Ordinarily only a physician's note will be accepted as an excuse for an absence because of illness.

Permission to register late in a course does not in itself excuse the student's absence from the classes already held. The student must file notes of excuse to cover the dates missed.

Freshmen not on probation will be permitted unexcused absences equal to twice the credit value of the course (two absences in the case of 0-credit and ½-credit courses). Students on probation will be permitted unexcused absences equal to the credit value of the course (two absences in the case of 0-credit, ½-credit, and 1-credit courses). Excess unexcused absences may be penalized by reduction of credit for the course in proportion to the number of absences.

If a class meets for 1½ periods a day, each absence counts as one and one-half; if a class meets for 2 periods a day, each absence counts as two.

Continued absence without excuse will result in dropping the student from the course with a grade of G. In addition, such students will render themselves liable to being placed on probation. Flagrant cases of absence in several courses may necessitate withdrawal from the College.

If a student is absent from any course for any cause for more than half a semester, the course will not be counted toward a degree and the student will not be allowed to take any of the examinations. She will receive a W or G in the course (depending on whether the absences are excused or not).

Grades

The work of each student is graded on the following basis:

A Excellent

B Good

C Fair

D Poor (lowest passing grade)

F Failed

G Course dropped by student (equivalent to failure)

M Missing (no grade reported)

N No credit (see below)

P Passed (see below)

R Repeat (to continue course)

T (followed by B, C, D, or F)—Tentative grade

W Withdrew without penalty

Y Year course; June grade applies to both semesters

The symbols + and — suffixed to a grade indicate the upper and lower thirds, respectively, of the ranges covered by those grades; see at right.

The mark of R is given in remedial courses when it is advisable that the student continue in the class.

Withdrawal from courses requires written permission. Unless such permission is obtained, the student receives a G, equivalent to failure, in those courses from which she has withdrawn. Except under unusual circumstances, withdrawal from a course is not allowed during the last month of sessions.

Tentative grades are explained on page 25.

P or N System

Each student above the freshman year is permitted to select one course each semester to be grade P or N.[1] This is for the purpose of stimulating students to take course-work outside their area of specialization; therefore, the course so selected may not be one required for graduation or to fulfill the requirements of the major. Students must apply for such a course on Form T28.2, available in the Office of the Registrar. This form lists the regulations and limitations applicable to the choice of a course on the P or N system.

Academic Average

Each grade has a numerical value, as follows: A=4; A-=3 2/3; B+=3 1/3; B-=2 2/3; C+=2 1/3; C=2; C-=1 2/3; D+=1 1/3; D=1; D=2/3; F, G=0. When the numerical value is multiplied by the credit value of the course, the resulting figure is known as the number of quality points.

The student's average rating is computed by dividing the number of quality points earned by the total number of credits completed, including courses failed. The average is rounded to the third decimal place.

Grades achieved at other colleges and universities are not averaged in with a student's record at Stern College; only credit is granted on transfer.

Dean's Honor List

Each year, full-time students who have achieved a scholastic average of distinction are included on the Dean's Honor List, which classifies those listed as follows:

"With Honor": 3.400-3.599 average
"With High Honor": 3.600-3.799 average
"With Highest Honor": 3.800-above

Inclusion on the Dean's Honor List becomes part of the student's permanent record.

---

[1] Freshman Honors Admittees may also exercise this option.

Honors at Graduation

To receive honors at graduation, students must achieve the following cumulative averages at Stern College: *cum laude*, 3.400; *magna cum laude*, 3.600; *summa cum laude*, 3.800. Higher averages may be required of students who have taken fewer than 94 credits at Stern College.

Receipt of degrees with honors is not automatic; candidates must receive the approbation of both the faculty and the President.

Probation and Academic Dismissal

A student whose academic average for any semester falls below 2.0 is placed on probation. If her average falls below 2.0 two semesters in succession, or three semesters non-consecutively, she may receive an academic dismissal. A student whose cumulative average at the end of any year is below 2.0 will not be permitted to reregister without specific approval of the Committee on Academic Standards, which may impose restrictions or conditions.

Students may also be placed on probation for any of the following causes: unsatisfactory attendance record, unsatisfactory conduct, admission with a condition. Students on probation may be limited to 12½ credits a semester or in work done for remuneration by the Committee on Academic Standards. Under no circumstances may they participate in any extracurricular activities. They are required to attend all classes and College exercises. Such students may also be declared ineligible for financial assistance.

Probation serves as a serious warning to the student and her parents or guardian that her record is unsatisfactory and that significant improvement is expected. If such improvement does not occur in the semester during which the student is on probation, she is dropped from the College.

Credits for Enrollment in Classes

The maximum number of credits required for enrollment in each class is as follows:

Class	Credits
Upper Freshman	12
Lower Sophomore	28
Upper Sophomore	45
Lower Junior	61
Upper Junior	78
Lower Senior	94
Upper Senior	111
Graduation	128

No student, however, may be enrolled as a sophomore until she has removed all entrance conditions; any student who is at any time carrying a sufficient number of credits to complete the total required for graduation is registered as an upper senior. A student will not be graduated until she has completed all her requirements and all her indebtedness to the University has been discharged.

Independent Study

Superior Students may request permission to do work outside of regular courses, under the following conditions:

A. The student must be a senior or, with special permission, a junior.

B. Her academic average generally and in her major must be at least 3.4.

C. She must present evidence that regular courses are not available or do not suffice for her needs.

D. She must have completed at least 18 credits in the subject before doing honors work.

E. The student must have a faculty sponsor under whose supervision she will work. This sponsor must be the senior professor of the subject or, in special cases, with the approval of the senior professor, another member of the staff.

The required procedure is as follows:

1. At least two months before the end of the term previous to that during which the student plans to do her work, she must submit her request to the Office of the Registrar on Form P20. This form provides space for a description of the project and for the recommendations of the faculty sponsor, Office of the Registrar, and chairman of the department. The faculty sponsor also lists the examinations and papers to be required of the student.
2. The Dean considers every application and must give his approval.
3. Independent Study is listed on the student's record as "(Subject) 63."

Work Load

The normal number of B.A. credits for a full semester's work is 15½ to 18½. A full-time student is defined as one who is enrolled for at least 12 credits during a 16-week semester, or 3 credits during a 4-week session.

The normal maximum course load each semester is 18½ credits; students above the freshman year with a 2.5 average may take up to 21½ credits, with permission of the Dean.[1]

In rare instances, students with superior records (an average of 3.5 or over) may be permitted to register for 24 credits a semester, with permission of the Dean, provided that the credits above 18½ are in the field of Hebrew language, literature, and culture.

Students who are employed may be required to limit their programs.

Credit and Exemption by Examination

See page 10 for information on methods of gaining credit or exemption from coursework by means of examinations.

[1] Freshmen entering as Honors Admittees may take up to 21½ credits.

ADMISSION

Admission regulations pertaining to Stern College alone are given here; those uniformly applicable to all undergraduate schools are given on page 7.

The 16 units required for admission must include the following 11:

English	4
Additional Language (two years of one language, classical or modern)	2
Social Studies (American History[1] and one additional year of European or World History)	2
Mathematics (college preparatory[2])	2
Science (General Science, Biology, Chemistry, or Physics)	1

The remainder of the required 16 units may be chosen from any college preparatory subjects, with no more than 1½ units to be presented in commercial or minor subjects.

Entrance/Placement Examination

Applicants for Stern College take an entrance/placement examination in Jewish studies. Those otherwise accept-

[1] History 41 or 42 or 43 or 44 must be taken if American History is not offered for admission. With special permission, students who lack American History will be permitted to make up their entrance condition by taking the College Entrance Examination Board test in American History and scoring 500 or above. Any student who takes this test after having taken 61 credits of college work (at Yeshiva University or elsewhere) must score at least 550.

[2] College preparatory mathematics should include topics selected from algebra and geometry (demonstrative and analytic). The point of view should be in harmony with contemporary mathematical thought, and emphasis should be placed upon basic concepts and upon the principles of deductive reasoning regardless of the branch of mathematics from which the topic is chosen. Courses designed for other purposes (e.g., consumer mathematics, business mathematics, shop mathematics) are not acceptable.

able whose background in this area is weak will be given assistance before they start classes to bring them up to the desired level.

Honors Admittees

Following admission to Stern College, a subcommittee reviews the qualifications of all prospective students. Those presenting a superior academic record, on the basis of high school achievement and College Entrance Examination Board scores, are recommended for designation as Honors Admittees by the Dean.

This group is assigned status and privileges usually accorded only to upperclassmen on the Dean's Honor List and has additional academic options.

DESCRIPTION OF COURSES

Before reading course descriptions, be sure to consult the information on the terminology of these descriptions on page 28.

Art

1 Apreciation of Art. (1-0-1). Attitudes toward subject matter and pictorial projection of emotions, with reference to French impressionism and American social realism; expressionism, fauvism, cubism, surrealism, and nonobjective arts; contemporary architectural design.

1.1;2.1 History of Art. (2-0-2). First semester: Western are from the prehistoric period through the gothic period; second semester: Early Renaissance art through the 19th century.

TEACHERS INSTITUTE FOR WOMEN

Teachers Institute for Women

Teachers Institute for Women, established in 1952, is the nation's largest center for the preparation of women teachers of Hebrew language, literature, and culture. The

Institute trains qualified professional personnel for positions of educational and communal leadership. The quality of its substantive courses attracts many young women seeking self-improvement and enriched background.

The curriculum leads to the Bachelor of Science in Education degree. Students may also qualify for a Hebrew teacher's diploma.

Classes meet at convenient hours on weekday mornings, afternoons, and evenings and Sunday mornings and afternoons.

Teachers Institute is located at the Midtown Center, 245 Lexington Avenue, Manhattan. A new $4,500,000, 11-story building has been erected—adjacent to an existing structure—providing classrooms, library, lecture halls, dining hall, and administration and faculty offices. The school's central location affords easy access to New York's great cultural features.

Teachers Institute is accredited by the National Board of License and is a member of the American Association of Hebrew Teachers Colleges.

CURRICULUM

Bachelor of Science in Education

Degree Requirements

a. 106 credits in Hebrew language, literature, and culture, distributed among the departments of Bible, Education, Hebrew, History, and Judaic Studies as directed by the student's adviser. (Education 37, 38, and 45 must be included.)[1]

The normal course of study by year is:

---

[1] Courses of the preparatory year (those numbered 01-09) cannot be counted toward requirements for the B.S. in Ed. degree or teacher's diploma.

Freshman

Bible: 15; 16 and two courses chosen from 11-14
Hebrew: 15, 16
Judaic Studies: 11, 12
Electives: one or two each semester

Sophomore

Bible: four courses chosen from 20-24 and two courses from 27-30
Hebrew: 25, 26
History: 21;22
Judaic Studies: two courses chosen from 23-28

Junior

Bible: two courses chosen from 37-39 and two courses from 33-36 (Hebrew 25 or 36 may be substituted for one)
Education: 31, 32, 37, 38
Hebrew: 37;38
History: 31;32
Judaic Studies: 37, 38
Electives: one or two each semester

Senior

Bible: two courses chosen from 45-48 and two from 43, 44, 49
Education: 41, 42, 45
Hebrew: 43, 44;47;48
History: 41;42
Judaic Studies: two courses chosen from 41-43
Electives: one or two each semester

b. At least 62 credits of the above requirements must have been taken in residence at the Institute or in an approved program at another institution of higher education, and must not be credits granted on the basis of examinations.

c. Completion of at least the senior year (30 credits) in residence at Teachers Institute for Women.

d. Achievement of a cumulative average of 70%.

e. Passing the following comprehensive examinations: Bible, Hebrew Language, Hebrew Literature, Jewish History. The passing mark on each examination is 60%. If any examination is taken in two parts, 60% must be achieved on each part. An average of 70% on all comprehensives is required.[1]

f. Completion of the following additional credits in the liberal arts and sciences:

1. English .....12 credits

   English 1.1, 3-4; Speech 1.1.

2. Social sciences .....12 credits

   Chosen from Economics 1; History 1, 2;5;6; Philosophy 1; Political Science 1.1;2.1; Sociology 1,2. Students who did not have one year of American History in secondary school must take History 5;6.

3. Natural sciences .....6 credits

   Chosen from Biology 1-2; Chemistry 1-2 or 1.1-2.1; Mathematics 1-2 or 3-4; Physics 1-2.

4. Minor subject .....6-12 credits

   Either 6 credits in a foreign language (other than Hebrew and Yiddish) on the intermediate or higher level, *or* 12 credits in an academic subject which can be taught on the secondary school level. If a minor is presented in a subject also used to fulfill requirements 1, 2, or 3, the number of credits presented must be 6 over and above those presented under those requirements.

5. Educational backgrounds .....4 credits

   Art 1 *and* either Psychology 1 or a course in tests and measurements or sociology of education.

---

[1] A student who fails four comprehensive examinations will receive an academic dismissal. A $10 fee is charged for retaking a comprehensive examination because of failure.

6. Health education .....2 credits

   Chosen from Health Education 1, 2, 3, 4, 10.

7. Electives .....10-16 credits

   Additional courses in any of the above areas to bring the total, including requirements listed under a, to 164 credits.

g. If the credits in paragraph f were used for another degree, at least one year must elapse between the award of the two degrees, during which time the student must complete not less than 24 credits at Yeshiva University.

h. Approbation of the faculty.

i. Completion of all requirements within eight years of admission, excluding time lost because of serious illness or similar emergency.

Students who complete only requirements a-e- may receive a Hebrew teacher's diploma. They must complete these requirements within six years of admission, excluding time lost because of serious illness or similar emergency, and must receive the approbation of the faculty.

Graduate Work

Graduates of the Institute who hold a bachelor's degree and desire to pursue graduate study in Jewish learning at Yeshiva University may continue their work at three graduate schools: Ferkauf Graduate School of Humanities and Social Sciences offers graduate programs in Jewish education; Bernard Revel Graduate School and Harry Fischel School for Higher Jewish Studies offer programs leading to advanced degrees in Hebrew literature, Jewish studies, and Semitics.

Israel Study Seminar

Outstanding students who have completed at least 12 credits with distinction are eligible to apply for a half-

year or a full-year scholarship for study in Israel, offered in conjunction with the Jewish Agency, and will receive appropriate credit toward the Institute's program.

The scholarship provides for free room and board and tuition while in Israel.

Brookdale Scholarship Program

The Brookdale Foundation provides funds for scholarships and for the development of a new Internship Program in Leisure Time Education. Under the program, students at the Institute would receive training and orientation for the Jewish cultural enrichment of the Jewish aged. These prospective teachers will spend part of their student teaching time at institutions which deal with the Jewish aged, and receive guidance from experts in the field.

SCHOOL REGULATIONS

Regulations pertaining to Teachers Institute for Women alone are given here; those uniformly applicable to all undergraduate schools are given in the section *University Regulations.*

Attendance

Students are expected to attend all scheduled class sessions and exercises and to be present promptly at the beginning of the hour unless prevented by illness or other compelling cause. A record of each student's attendance in each class is kept. For an absence to be excused, the student must file a statement with the Director immediately upon her return to school.

If a student's unexcused absences in a course exceed per semester twice the number of periods per week of the course, she may be dropped from the course and denied permission to take the final examination in that course. Two latenesses count as one absence. Unexcused absences in several courses may necessitate withdrawal from the Institute.

If a student changes a course during the time permitted to change the program, the sessions that she missed in the new course are considered absences.

Grades

The academic coursework of each student is graded on the following basis:

90-100%	Excellent
80-89%	Good
70-79%	Fair
60-69%	Poor (lowest passing grade)
Below 60%	Failing

T (followed by a grade not higher than 89) Tentative grade

Tenative grades are explained on page 25.

Honors

Honors at graduation are awarded as follows:

Cum laude	90.0-91.9%	and approbation of the faculty
Magna cum laude	92.0-93.3%	
Summa cum laude	94.0% and over	

Probation and Academic Dismissal

A student whose academic average for any semester falls below 70% is placed on probation. If her average falls below 70% two semesters in succession, or three semesters non-consecutively, she receives an academic dismissal.

Students may also be placed on probation for any of the following causes; unsatisfactory attendance record, unsatisfactory conduct, admission with a condition. Students on probation may be declared ineligible for a full program of studies or for financial assistance.

Probation serves as a serious warning to the student and her parents or guardian that her record is unsatisfactory and that significant improvement is expected. If such improvement does not occur in the semester during which the student is on probation, she is dropped from the Institute.

Credits for Enrollment in Classes

The number of credits which a student is required to have in the field of Hebrew language, literature, and culture before she can be officially enrolled in each class is as follows:

Class	Credits
Upper Freshman	10
Lower Sophomore	20
Upper Sophomore	32
Lower Junior	44
Upper Junior	58
Lower Senior	72
Upper Senior	86
Graduation	106

A student will not be graduated until she has completed all her requirements and all her indebtedness to the University has been discharged.

Student Teaching

Satisfactory completion of a minimum of 150 hours of supervised student teaching in an approved school, taken in the form of Education 45, is a requirement for the degree.

Those who wish to student teach must, before registering for the course, apply for and receive the approval of the Committee on Student Teaching. Since early arrangements must be made for placing prospective candidates in cooperating schools, such students should apply not later than one month before the end of the semester prior to that in which they wish to be assigned. A special form, available in the Institute office, must be filed by the student. The Committee will reach its decision on the basis of the student's performance in previous courses, particularly education courses, and evaluation of the student's personality and psychological fitness. Any student may be withdrawn from the student teaching program at any time at the discretion of the Committee.

Students must be prepared to meet the heavy time demands of student teaching, and must arrange their pro-

grams and activities so that they remain in the student teaching situation until the close of the term of the cooperating school, if necessary.

While every effort will be made to place the student in the student teaching situation which will best give the needed training, it must be understood that cooperating schools have the right to accept or reject, according to their own standards, those suggested by the Teachers Institute for student teaching.

Student teachers are responsible for being familiar with all the regulations which apply to their programs. In particular it is the candidate's duty to take the initiative in making early application and in maintaining contact with the faculty member assigned.

In addition to observation and practice teaching, student teachers are required to assist the teacher in whose class they observe.

ADMISSION

Admission regulations pertaining to Teachers Institute alone are given here; those uniformly applicable to all undergraduate schools are given on page 7.

An entrance examination and interview are required and can be arranged with the Office of the Director after the applicant has filed her application in the Office of Admissions.

The examination covers spoken and written Hebrew, Hebrew literature (Biblical and modern), and Jewish history and culture. Advanced placement may be granted on the basis of these tests.[1]

---

[1] For students who do not meet the usual entrance reuirements, a limited number of preparatory courses (numbered 01-09) are offered to bring them up to the required level. Such students are classified as Provisional (see page 11).

AWARDS & HONORS

Awards and Honors

The following Commencement Awards are granted annually to students selected by the faculty:

YESHIVA COLLEGE

Professor Meyer Atlas Memorial Award for excellence in biology

Bitzaron Award for excellence in Hebrew

Jacob and Ethel Blackman Award (given by Dr. Samuel Blackman) to the graduating student with the highest average in chemistry

Professor Daniel Block Memorial Award for excellence in mathematics

Mushe Cohen Memorial Award for excellence in Bible

Professor Kenneth Damon Memorial Award for excellence in debating

George and Bertha Fisch Award for excellence in French

Ephraim and Sarah Fleisher Memorial Award for excellence in Jewish studies

Professor Bernard Floch Memorial Award for excellence in classical languages

Pofessor Jekuthiel Ginsburg Memorial Award for excellence in mathematics

Mendel and Sarah Gottesman Memorial Award for scholarship, ethics, and character

Joseph Gunner Memorial Award for excellence in mathematics

Benjamin H. Hammer Memorial Award for excellence in political science

Histadruth Ivrith Award for excellence in Hebrew language and literature

Chaplain Joseph I. Hoenig Memorial Award for excellence in psychology

Benjamin and Bertha Lebzelter Memorial Award for excellence in Bible

Samuel and Emily Granet Lemler Award for excellence in pre-medical studies

Professor Eli M. Levine Award for excellence in chemistry

Professor Arnold N. and Bertha Lowan Memorial Awards (2) for excellence in physics

Professor Aaron Margalith Memorial Award for excellence in political sciences

Mutual Benevolent Society of 1865 Inc. Award for excellence in biology

Ya'akov Yehuda Nirenstein Award for excellence in Hebrew

Gertrude Nissenbaum Memorial Award (given by Mr. and Mrs. Benjamin Nissenbaum in memory of their daughter) for excellence in mathematics

Emile Offenbacher Memorial Award for excellence in physical education

Paul Orentlicher Memorial Award (given by the Yeshiva College Alumni Association) for excellence in philosophy

Jerome Robbins Memorial Award (given by the Class of 1943) for the best original short story

Edward A. Rothman Memorial Award (established by Herny, Bertha, and Edward Rothman Foundation) for the best essay on the theme of Issues in Orthodox Judaism in Practice

Irving R. Shull Memorial Award (given by Brith Sholom) for achievement in human relations

Rabbi Murray Tobias Memorial Award (given by the Rabbinic Alumni) for character

Louis Werfel Memorial Award (given by the Yeshiva College Alumni Association) to the highest ranking junior

David and Rebecca Wolstein Memorial Award (established by Dr. Benjamin Wolstein) for excellence in psychology

Women's Branch of the Union of Orthodox Jewish Congregation of American Award for excellence in Jewish studies

Yeshiva University Women's Organization Award for excellence in English

Yeshiva University Women's Organization Award for ethics and character

National Council of Young Israel Award for excellence in history

Monis and Chaya Zuckerman Memorial Award for the best research paper in Jewish history

EMPLOYER'S EXHIBIT No. 22-B

YESHIVA UNIVERSITY

BELFER

GRADUATE

SCHOOL OF

SCIENCE

CATALOG 1974-76

WASHINGTON HEIGHTS • NEW YORK, N.Y. 10033

Yeshiva University

Yeshiva University is a private institution under Jewish auspices chartered by the State of New York; it is accredited by the Middle States Association of Colleges and Secondary Schools and by specialized professional agencies and is a member of the College Entrance Examination Board. The undergraduate colleges and graduate schools of natural science, social sciences, and humanities offer programs leading to bachelor's, master's, and doctoral degrees.

In addition to its extensive teaching programs, the University conducts a network of affiliates, a widespread program of research, community service agencies, and a museum, and publishes several scholarly journals.

Yeshiva University traces its origins to Yeshiva Eitz Chaim, founded in 1886 on New York's Lower East Side. Ten years later the Rabbi Isaac Elchanan Theological Seminary was founded there, and in 1915 the two schools merged under the name of the latter.

Under the dynamic leadership of Dr. Bernard Revel, who served as president from 1915 until his death in 1940, the institution embarked on a plan of educational development and growth. In 1929 the institution moved to its present Main Center in Manhattan's Washington Heights. Liberal arts programs began with the establishment of Yeshiva College in 1928, and the first graduate curriculum—in Semitics—was introduced in 1935.

The election of Dr. Samuel Belkin as president in 1943 inaugurated a new era of expansion. University status was granted two years later by the New York State Board of Regents. The institution initiated programs of professional education, research, and special projects to advance the well-being of many constituencies. In 1954 a college of liberal arts and sciences for women was founded and, in more recent years, graduate schools of science, medicine, social work, and humanities and social sciences.

The University's five undergraduate schools and seven graduate schools are located in Manhattan (Main Center, Washington Heights; Midtown Center, 245 Lexington Avenue; Graduate Center, 55 Fifth Avenue) and the Bronx (Eastchester Road and Morris Park Avenue). The Main, Midtown, and Bronx Centers have dormitory and dining facilities. Each school is so conducted as to assure friendly, informal, and educationally sound relationships between students and faculty. All units thus retain the character and virtues of small institutions.

The Mendel Gottesman Library at the Main Center is a $5,000,000, six-story, block-long central university library with a capacity of 500,000 volumes. It includes the University Archives, and Rare Book and Manuscript Room. In addition there are specialized libraries at all the centers.

Its present programs and plans for the future reflect Yeshiva University's ever-growing concern with America's most pressing needs. For more than eight decades the University has taken a position of leadership in higher education, serving the community and the nation as a whole.

Belfer Graduate School of Science

Belfer Graduate School of Science offers programs in chemistry, mathematics, and physics for careers in research, teaching, and industry. Courses of study lead to the Master of Science, Master of Arts, and Doctor of Philosophy degrees. An outgrowth of the Institute of Mathematics, it was established as the Graduate School of Mathematical Sciences in 1958 and named the Graduate School of Science two years later, reflecting the broadened scope of the School's present and anticipated programs. In 1962 it was renamed in recognition of the generosity of Arthur B. Belfer.

Major courses of study are provided in chemistry, mathematics, and physics. Facilities are available for experimental research in physics and chemistry.

The School's Department of Mathematics and Science Education offers, with the cooperation of Ferkauf Graduate School of Humanities and Social Sciences, programs of study for the training of secondary school and college teachers of mathematics and physics.

Belfer Graduate School serves its students, the scientific community, and industry through various conferences and symposia.

Dedicated to scholarship and research, the School promotes and supports creative research by advanced students and faculty. To achieve these objectives, it places emphasis in its programs on the application of subject matter to new and current research problems. The faculty is composed of scientists who are both outstanding teachers and distinguished scholars. A low student-faculty ratio assures an informal and stimulating academic atmosphere, conducive to professional growth and free scientific inquiry.

The Maxwell R. Maybaum Institute of Material Sciences and Quantum Electronics, opened at the Belfer Graduate School in 1972, is being developed as a center for frontier research in lasers, optics, electronics, and the development of new materials with applications in physics, chemistry, and the life sciences.

Students may utilize the resources of the Belfer Graduate School of Science Library, including 23,000 volumes on mathematics, physics, and chemistry.

Belfer Graduate School is housed in the Science Center (2495 Amsterdam Avenue)—a $20,000,000 complex of 20 stories opened in November 1970, with classrooms, office-seminar rooms, laboratories, library, lecture halls, computer center, plasma research center, and other major facilities for teaching and research in physics, mathematics, chemistry, and related fields, as well as a commons area, faculty dining hall, and lounge.

Admission: Policies and Procedures

Under the admission policy of the University there is no discrimination in regard to sex, religion, age, race, color, or national origin.

INQUIRIES

All communications and supporting documents pertaining to admission should be sent to the Office of Admissions, Yeshiva University, 500 West 185th Street, New York, N.Y. 10033.

CATEGORIES OF STUDENTS

Regular Students

Students admitted with permission to work toward degrees are classified as Regular. A Regular student admitted with a condition must make up his condition within the time limit set by the Office of Admissions to maintain this status.

Provisional Students

Applicants who meet the quantitative requirements for entrance but not the qualitative requirements may be admitted as Provisional students. If they achieve an acceptable average, they may be reclassified as Regular. However, they are bound by any changes in degree requirements made prior to their attainment of Regular status.

Transient Students

Students who wish to enroll for courses to meet their particular needs without entering a degree program are classified as Transient. Included are the following: 1) graduate students or upper seniors in good standing at other colleges or universities who enroll for courses which they will transfer to their home schools; 2) teachers who wish to take courses for state certification or increment credit; 3) qualified individuals who wish to study subjects in which they are interested. Normally students in this category may enroll for not more than a total of 9 credits. Transient students in the Department of Mathematics and Science Education should consult page 30.

Visiting Students

Students enrolled with Regular or Provisional status in another school of Yeshiva University may register for a limited number of courses at Belfer Graduate School as Visiting students, with the permission of their home school and the Dean of Belfer Graduate School.

Unclassified Students

Applicants whose records are not complete or have not yet been evaluated by the time of registration, but who seem to be qualified on the basis of the records available, may be allowed to register for courses as Unclassified students pending the filing or evaluation of their credentials. This status may be continued for a period not exceeding one semester. Such students enroll at their own risk and may be dropped at any time if their complete records are not acceptable or are not available. They are bound by any changes in degree requirements made prior to their attainment of Regular status.

Special Students

Applicants who give evidence of fitness by reason of maturity and previous training and demonstrate ability to maintain standards of progress, but do not qualify for admission under the categories listed above, may be admitted as Special students. No credit is allowed for work completed under this classification

---

There is no category of "auditor." A student admitted under one of the above categories may be permitted to audit a class with the written permission of the instructor, the department chairman, and the Dean. Such a student does not participate in classwork and is not given examinations; he receives no grade and no record of his auditing is kept, so that no transcript can be issued nor any kind of credit or recognition given.

All students, regardless of their status, must meet all standards and comply with all regulations and requirements.

ADMISSION CRITERIA

A. Applicants for programs in chemistry, mathematics, and physics leading to Master of Arts and Doctor of Philosophy degrees are required to present:

1. A bachelor's degree from an accredited college or university, and satisfactory personal qualifications and standards of scholarship.
2. Undergraduate preparation:
   a) Applicants for admission to the Chemistry Department are *strongly advised* to complete one-year college courses in organic chemistry, physical chemistry, physics, and calculus.
   b) Applicants for admission to the Mathematics Department are *advised* to complete at least one year of college mathematics beyond calculus.
   c) Applicants for admission to the Physics Department *must* complete two years of college physics and two years of college mathematics.

B. Applicants for programs in Mathematics and Science Education leading to the Doctor of Philosophy degree are required to present a master's degree with a major in mathematics or physics from an accredited college or university,[1] and satisfactory personal qualifications and standards of scholarship.

C. Applicants for programs leading to the Master of Science degree are required to present a bachelor's degree from an accredited college or university, and satisfactory personal qualifications and standards of scholarship.

[1] This requirement cannot be satisfied with the M.S. degree from the Department of Mathematics and Science Education.

ADMISSION PROCEDURE

1. Application forms, available from the Office of Admissions, should be filed with that office one month—at the very latest—before the beginning of the semester.
2. Applications are considered for the Fall and Spring Semesters as follows:

   Department of Chemistry—Applicants are normally admitted in the Fall Semester. Only transfer students or students otherwise having advanced standing may be admitted in the Spring Semester—with departmental permission.

   Department of Mathematics—Applicants are normally admitted in the Fall Semester. Spring applicants are considered only under unusual circumstances. Prior consultation with the department is recommended.

   Department of Mathematics and Science Education—Applicants are admitted in the Fall and Spring Semesters.

   Department of Physics—Applicants are normally admitted in the Fall Semester. Spring applicants are considered and do not require special permission, although it is advisable to check with the department before applying.
3. Applicants seeking admission to a degree program should:
   a) File a completed application and submit the required $10 application fee.
   b) Arrange to have two official transcripts of all undergraduate and graduate work forwarded to the Office of Admissions.
   c) Submit three letters of recommendation by persons familiar with the applicant's academic work.
   d) Have an interview with a member of the faculty —if required by the department.

4. Applicants interested in applying for awards at Belfer Graduate School should file applications for awards before February 15 for the year beginning the following September (see pages 13-15).

5. Applicants seeking admission as Transient or Special students should submit an application, with the required $10 application fee, and a statement giving their reasons for seeking admission (see *Categories of Students*, page 10).

   a) Students in good standing at another university or college are required to present a letter from that school stating that they are fully matriculated there, and that they have permission from that school to take courses at Belfer Graduate School. The department or the Committee on Admissions may in addition require transcripts of graduate and undergraduate work.

   b) Individuals who wish to study subjects in which they are interested must submit transcripts certifying receipt of a bachelor's degree. The department or the Committee on Admissions may in addition require transcripts of graduate and undergraduate work.

   c) Applicants may be admitted as Special students if they can present evidence of fitness as listed on page 11.

Notice: All credentials submitted to Belfer Graduate School become the property of Yeshiva University.

Student Finances

TUITION AND FEES

Application for Admission	$ 10.00
University Registration Fee, each registration	
0-6 credits	15.00
7 credits and over	25.00
Tuition	
Full-time students	750.00 per semester
	1,500.00 per year
Part-time students	
0-6 credits	75.00 per credit
7 credits and over	750.00 per semester
Laboratory Fees	
(for all chemistry laboratory courses)	25.00 per semester
Late Registration Fee	5.00
Change of Program Fee	5.00
Maintenance of Registration	
Per semester	20.00
Per year	35.00

Maintenance of Status

Part-time students who have completed all coursework and are preparing for examinations or are working on their dissertation will be charged $90.00 for tuition and registration fee for each semester that they maintain their status. Doctoral students writing their dissertations but not taking other coursework who wish to be considered full-time students must register for DR 705 and will be charged $750 and a $25 registration fee per semester.

Graduation Fee	25.00
Doctoral Degree Fee	100.00
Transcripts of Record, each	
regular service	2.00
rush service	5.00

University regulations require the payment in full of all tuition and fees in order to complete registration. Make checks or money orders payable to Yeshiva University. All payments must be made directly to the Office of Student Finances; no one else is authorized by the University to accept payments. All outstanding accounts for previ-

ous academic work in any division of the University must be cleared before registration for additional credits can be approved. Students will therefore not be permitted to register until all outstanding balances have been paid.

FINANCIAL AID

For further information on any program listed below, contact the agency indicated or the Office of Student Finances.

Joseph and Sadie Danciger Scholarship and Fellowship Fund

Trustees of the Sadie Danciger Estate of Kansas City, Mo., have established a fund of $250,000 to provide scholarship and fellowship aid to deserving students in the various graduate schools of Yeshiva University.

University Scholarships and Fellowships

The University offers scholarships to a limited number of students. A limited number of fellowships, traineeships, and teaching or research assistantships also are available to qualified students. Further information and application forms are included with admission application forms.

Stern College Scholarship

A tuition scholarship covering one year of graduate study is offered annually by Belfer Graduate School to a graduate of Stern College for Women who has done excellent work in mathematics. The School reserves the right to withhold this award if there is no suitable applicant.

New York State Regents College Teaching Fellowships

This program is limited to legal residents of New York State. The State awards each year 250 Regents College Teaching Fellowships for beginning graduate study and 100 Regents College Teaching Fellowships for advanced graduate study to persons planning to teach at a college or university in the State at the conclusion of their doc-

toral programs. These awards are $500-$2,500 a year, depending on the financial ability of the recipient. For information and applications write to the Regents Examination and Scholarship Center, State Education Department, 99 Washington Avenue, Albany, N.Y. 12210. Candidates must apply by December 1 for the following academic year.

National Direct Student Loan Program

The National Direct Student Loan Program was authorized by the National Defense Education Act of 1958 Title II, and amended by the Higher Education Act of 1965. The principal aim of this law is "to insure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States." It provides for the establishment of loan funds from which needy undergraduate and graduate students may borrow on reasonable terms for the purpose of completing their higher education.

Federal Guaranteed Loan Program

The education of persons from middle- or upper-income groups frequently places a financial burden on their families, particularly if there a number of children planning to go to institutions of higher education. In many cases the student cannot qualify for student employment or a student loan. Even when commercial credit sources are available, repayment generally runs concurrently with the years the student attends school.

To help these people and their families, a Guaranteed Loan Program was authorized by the Higher Education Act of 1965. Under this program a student may borrow from a bank or other financial institution as much as $1,500 a year.

A student from a family with an adjusted income of less than $15,000 a year pays no interest while he is attending an eligible institution of higher education. Repayment of principal and interest begins when the student has ceased his course of study. At that time the federal

government pays approximately one-half the interest and the student the remainder. A student from a family with an adjusted income higher than $15,000 a year pays the entire interest on the loan but he may borrow under the Guaranteed Loan Program at 7% simple interest.

The major objective of this program is to make loan insurance available to any student who wants to borrow. Students interested in federal guaranteed loans should contact their state education department.

NEW YORK STATE HIGHER EDUCATION ASSISTANCE CORPORATION

The Higher Education Assistance Corporation was established by New York State to assist qualified students to meet financial need during their years of undergraduate or graduate study. The program makes possible low cost commercial bank loans with very liberal repayment terms similar to those of the National Direct Student Loan Program. New York State residents attending the School are eligible for these loans. For applications and further information write to the New York Higher Education Assistance Corporation, 50 Wolf Road, Albany, N.Y. 12205.

NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY

A loan program somewhat similar to that of New York State is available to residents of the State of New Jersey. For information and applications, residents of New Jersey should contact the Scholarship and Loan Program, State of New Jersey, Department of Education, 175 West State Street, Trenton, N.J. 08625.

Students interested in state-guaranteed loans in other states should contact their state education department.

New York State Scholar Incentive Award Program

New York State residents attending the School on a *full-time* basis are eligible for Scholar Incentive Awards if

they maintain satisfactory academic standing. A full-time student is defined as a student who is registered for a minimum of 12 credits per semester or their equivalent. The stipend varies, depending on family income and tuition, from $100 to $300 per semester. However, the award cannot exceed the amount by which tuition for the semester (not including fees) exceeds $100. Holders of Regent Scholarships or Fellowships may also receive a Scholar Incentive Award, but it cannot be more than the amount by which tuition for the semester exceeds the scholarship or fellowship.

Applications should be filed with the State before July 1 for each academic year but will be accepted up to December 1. Applications for only the Spring Semester have an April 1 deadline. *Annual* application is required. For further information and application contact the Regents Examination and Scholarship Center, State Education Department, 99 Washington Avenue, Albany, N.Y. 12210.

Regulations

Student Programs

All programs must be planned with, and receive the approval of, the student's adviser.

Grades

The work of each student is graded on the following basis:

- A Excellent
- B Good
- C Fair (lowest grade creditable toward a graduate degree)
- D Passed (not creditable toward a graduate degree)
- F Failed
- G Dropped by student without permission (counted as failure)
- Inc Incomplete
- M Missing (no grade reported)

P Passed (equivalent to at least a C). All courses taken in a doctoral program after the semester in which the student has completed 24 credits at the School are graded on a Pass-Fail basis

S Satisfactory progress in doctoral research; credit granted only when dissertation is accepted

V (Visitor) Registered for the course, no qualitative grade assigned; not creditable toward a degree

W Withdrew without penalty

Y Year course; June grade applies to both semesters (changed to F if the student does not register for the second semester)

Inc grades require approval of the Dean on Form T29.5, available in the Office of the Register.

Students must apply for the grade of V on Form T30 available in the Office of the Register. The deadline for filing for a V grade is the same as the deadline for entering a new course. The V grade is granted only to students who have attended four-fifths of the sessions.

The dates by which students may withdraw without penalty and remove Inc grades are listed in the Academic Calendar. The date listed as the last day to remove an Inc is the day by which the final grade must be recorded by the Office of the Registrar. Students should therefore arrange for examinations, submit reports, papers, etc., sufficiently in advance to permit the instructor to read and evaluate the material and submit the grade by this date.

Students graded Inc who do not complete the required work and have a final grade submitted by the date listed in the Academic Calendar will have the Inc changed to an F, unless permission for an extension is requested by the student on Form T4.3 and is granted by the instructor and approved by the department chairman, Registrar, and Dean.

Enrollment

Students may not enter a course after it has met for one-fifth of the scheduled sessions.

Withdrawal

The last day to withdraw from a course without academic penalty (although the change of program fee will be charged) is listed in the Academic Calendar. After that date, permission of the Dean is required. Except under unusual circumstances withdrawal from a course will not be permitted after the course has met one-third of the scheduled sessions. Students wishing to withdraw from a course or from the School must file a written request with the Office of the Registrar. Students who withdraw by the specified date are eligible for a refund of 75% of the course tuition paid; registration and other fees are, however, not refundable. Students who withdraw after the specified date are not eligible for a refund.

To receive a refund, the student must submit a written request to the Office of Student Finances. The official date of withdrawal is the day the Office of the Registrar grants permission to withdraw. Students who withdraw without receiving written permission from this office are not eligible for a refund and will receive a G grade, equivalent to failure, in those courses from which they have withdrawn.

Credits

Credits are listed in terms of semester hours. Three credits are given for courses meeting for thirty 50-minute periods, and 4½ credits for courses meeting for forty-five 50-minute periods, of lecture and recitation, or the equivalent.

Academic Load

A full-time student is, in general, enrolled for not less than the equivalent of 12 credits per semester, nor more than the equivalent of 15 credits per semester, in course-

work, research, or related activity. Full-time students are normally not permitted to do any outside work.

Academic Average

Each grade has a numerical value, as follows: A=4; B=3; C=2; D=1; F,G=0 (P, V not counted). When the numerical value is multiplied by the credit value of the course, the resulting figure is known as the number of quality points.

The student's average rating is computed by dividing the number of quality points earned by the total number of credits completed, including courses failed and courses not credited toward a degree. The average is rounded to the third decimal place.

A student who is not classified as full-time or who attends another school is ordinarily limited to the equivalent of 6 credits per semester; with the permission of the Dean, he may take the equivalent of 9 credits per semester. However, the classification of a student as full-time or part-time is made by the Dean in consultation with the student's adviser.

A student who has completed all credits required for the doctoral degree and is working full-time on a dissertation and wishes to be classified as a full-time student, should register for DR 705 Doctoral Dissertation Writing. All provisions and regulations applicable to full-time students would then apply to these students.

Maintenance of Academic Standards

Students are required to maintain satisfactory standards of scholarship performance. All students are normally expected to maintain a 3.0 average to continue as a student in the School, and to receive a degree.

Probation

A student whose average falls below 3.0 any semester may be put on probation for the following semester. If

his average is again below 3.0 at the end of that semester, he may be dropped from the School.

Leaves of Absence

Students who are unable to return to the School because of government service, illness, personal or certain academic reasons, or who wish to study at other institutions, must request a formal leave of absence on Form M13 if they expect to return at some future time. Students who discontinue their studies without such written approval may be denied readmission.

Three types of leaves are available:

1. *Leave with maintenance of registration*—for students who have not completed their coursework.
2. *Leave with maintenance of status*—for students who have completed their coursework and are preparing for examinations or writing dissertations. Such students cannot be considered full-time.
3. *Government service leave of absence*—for students entering full-time service in the armed forces or in ACTION (Peace Corps and VISTA). No charge is made for such a leave during the period of actual service.

Sympathetic consideration will be given to a request by a student returning from an official leave who wishes to continue his course of study under the requirements in force at the time he was granted the leave.

Except for the purpose of government service, leaves of absence with maintenance of registration will normally be granted for a maximum of two semesters.

Students must file for leaves of absence by the end of the late registration period of the semester for which the leave is desired. A student who neither registers nor secures an official leave of absence for any semester will be considered as having withdrawn from the School.

Such a student who wishes to resume his studies will be required to apply for readmission.

The schedule of fees appears on page 13.

Records and Transcripts

A transcript is not issued for a student without his written request, except to another school or to a government agency. In these cases, transcripts are issued upon the request of the school or agency. A transcript is not sent to an employer or prospective employer without the student's permission.

Records of students are sent only in the form of a transcript. No partial records are sent, or ones listing only courses without grades.

A transcript will not be issued for a student who has an overdue debt to the University or has failed to return all books to the Libraries.

A student who wishes to change either his first or last name on School records must file Form M25 in the Office of the Registrar.

Students who believe that there is an error in their academic record (e.g., in a grade, average, credit value, or course description) must promptly call this to the attention of the Office of the Registrar. Even if there has been a mistake on the part of the University, no request for a correction will be entertained unless the student notifies the Office of the Registrar within three months.

Time Limitations

A student must complete the requirements for the master's or doctoral degree within the time limit set by his department. Under normal circumstances the maximum time limit is 5 years for the master's degree and 10 years for the doctorate.

Transfer of Credit

1. Credit for work completed at another institution of higher learning is not automatically granted; both the Office of the Dean and Office of the Registrar must approve its appropriateness to the degree sought at Belfer Graduate School of Science.
2. Credit may be transferred *only* in courses in which the student has received a grade of B or above.
3. All official actions concerning transfer of credit are taken by the Registrar after all records are checked and subsequent to written approval by the Office of the Dean.
4. Students who have taken courses at other graduate institutions and wish to apply for transfer of credit must do so on Form T19.5 during their first semester in attendance. Regulations and procedures are listed on Form T21.5, available from the Office of the Registrar.
5. All evaluations of work done elsewhere are tentative and subject to re-evaluation on the basis of the student's work at Yeshiva University. Transfer credits may be revoked, either in whole or in part, if subsequent work, either generally or in a particular subject, is not satisfactory.
6. Students already in attendance may take courses at other institutions or at other schools of the University only after they have received the approval of the Registrar and the Dean. Requests for such permission are to be made on Form P9, available from the Office of the Registrar. Such credits are also counted as transfer credits and subject to the above regulations. Courses at Ferkauf Graduate School taken as part of the regular degree program in the Department of Mathematics and Science Education are not considered as transfer credits. Students must pay the Belfer School fees for such courses (see page 13).

Graduation

Commencement exercises are held each June at the close of the academic year. Diplomas are issued thereafter. However, degrees may be awarded at the close of the summer, fall, and spring terms. A student applies for a degree by filing a Graduation Kit during the registration period of the term during which he expects to complete all requirements for the degree. Final dates for filing are listed in the Academic Calendar.

Should the degree not be awarded during that term, a Graduation Kit must be refiled *every term* until the degree is awarded. Graduation fees paid initially remain valid for an additional three consecutive terms and need not be paid again unless more than two years elapse between payment and award of degree.

Undergraduate Students of Yeshiva University

Qualified undergraduates are permitted to take graduate courses at Belfer Graduate School for undergraduate credit.

An undergraduate student who wishes to register for a graduate course must first secure written permission on Form P3.1, available in the Office of the Registrar.

Under exceptional circumstances undergraduates may take graduate courses for graduate credit. Students interested in doing so should first consult Form P3.4, available in the Office of the Registrar.

Information on joint Bachelor's-Master's Programs open to undergraduates will also be found in Form P3.4.

Student Responsibility

It is the responsibility of each student to ensure that he has observed all regulations, paid all fees, and met all course requirements, including prerequisites whenever such are required. The degree candidate should note that completion of the specified number of credits does not in itself satisfy degree requirements: he is responsible for meeting departmental regulations, examination requirements, course prerequisites, etc.

Student Information

False or misleading statements on admission, registration, scholarship application, or other School blanks, forms, or records dealing with outside employment, attendance at other institutions, financial status, departmental or degree requirements, or any other items of student information requested by the School may result in disciplinary dismissal.

Dismissal for Disciplinary Reasons

Graduate study requires excellence of character as much as excellence of intellect. A graduate student is expected to show seriousness of intellectual dedication, respect for the views and convictions of others, concern for the impact of advanced knowledge upon society at large, regard for his instructor, fellow students, and the School as a whole and, above all, adherence to the highest ethical and moral standards in his personal and professional life.

The admission of a student, his continuance on the rolls of the School, the receipt by him of academic credits, his graduation, and the conferring of any degree, diploma, or certificate upon him are entirely subject to the disciplinary powers of the School and to the student's maintaining the highest ethical and moral standards in his personal as well as in his academic life. The School is free to dismiss him at any time for infringement of these standards.

Injuries

All injuries and accidents to students while engaged in classroom work will be reported by the faculty member in charge of the course. Students are required to report immediately to the Office of Security and Safety any other injury suffered on University premises.

Use of the University's Name

No student or student organization may use the name of the University or of Belfer Graduate School in print for any purpose, including identification, without written permission from the Office of the Dean.

Programs, Degree Requirements and Description of Courses

A. Degree programs are formulated by students in consultation with an adviser and must receive departmental approval. Each student must consult with his adviser every semester before registration, and secure detailed regulations concerning departmental rules and policies.

B. To be admitted to Ph.D. candidacy, students must complete 60 credits beyond the bachelor's degree, pass the comprehensive and language examinations, and secure the permission of the department.

C. A recommendation for any degree may be reversed at any time prior to the actual conferring of the degree.

D. 1. Unless otherwise specified, classes are held at Belfer Graduate School of Science, 2495 Amsterdam Avenue, New York, N.Y. 10033.

2. Unless otherwise specified, courses are of one-year duration. For example, MA 115.1, 115.2 indicates that MA 115.1 is given in the Fall Semester and MA 115.2 in the Spring Semester. Unless written permission for a change is received, courses must be taken in the order listed for credit to be received.

3. Certain courses in which the subject matter varies from year to year may be taken more than once for credit, with the written approval of the adviser.

4. Not every course listed is offered every semester. Information as to which courses are being given, instructors, hours, and room assignments is available at the time of registration.

5. All courses are 3 credits per semester unless otherwise indicated.

6. Information concerning inservice courses at the School, including those sponsored by the National Science Foundation and others, may be obtained from the Director of Inservice Programs, Belfer Graduate School.

7. Courses are arranged in alphanumerical order, i.e., first by a two-letter code designating the department and then in numerical order.

Doctoral Research

DR 705 Doctoral Dissertation Writing. No credit. Prerequisite: completion of all credits for the doctorate, and permission of the adviser. Doctoral candidates writing their dissertations but not taking other coursework who wish to be considered full-time students must register for this course. Such students must be devoting at least 36 hours a week to their research and writing under frequent and direct faculty supervision, and must not be gainfully employed for more than 15 hours a week.

Chemistry

Dr. Martin Pomerantz, Chairman

REQUIREMENTS FOR THE MASTER OF ARTS DEGREE

Credit Requirement

30 credits.

Residence Requirement

A minimum of 24 of the 30 credits must be taken at the School.

Course Requirement

After a review of each student's background and record, the department will specify the required courses he must take to meet degree requirements.

The remainder of the 30 credits may be taken, with the approval of the student's adviser, in courses in the Department of Chemistry, Physics, and Mathematics.

All students are expected to participate in departmental seminars and colloquiums.

Examination Requirement

At the discretion of the department the student may be required to take an oral or written examination.

Thesis

No thesis is required, but with the approval of his adviser a student may conduct research and write a thesis. A maximum of 6 credits will be allowed for such research, in the form of CH 200.1, 200.2.

REQUIREMENTS FOR THE DOCTOR OF PHILOSOPHY DEGREE

Credit Requirement

72 credits, of which:

a) a maximum of 30 credits may be for CH 450 Chemistry Research.

b) a maximum of 6 credits may be in seminar courses (CH 500.1, 500.2 Pre-Research Seminar is required of all first-year students).

The department may prescribe additional credit requirements on the basis of the individual student's needs.

Residence Requirement

A minimum of 36 credits, including at least 9 in courses other than CH 450, must be taken at the School. Credits taken at other institutions are transferable, subject both to the requirements and regulations of Yeshiva University and to the discretion of the department.

Course Requirement

After a review of each student's background and record, the department will specify the required courses he must take to meet degree requirements. The remainder of the

72 credits may be taken, with the approval of the student's adviser, in courses in the Departments of Chemistry, Physics, and Mathematics.

All students are expected to participate in departmental seminars and colloquiums.

Examination Requirement

a) The student takes a qualifying placement examination covering undergraduate chemistry (and related physics and mathematics) at the time of his first registration. Satisfactory performance in this examination qualifies the student for graduate work. A student who does not perform satisfactorily in this examination is required, at the discretion of the department, to repeat all or part of it to qualify. Failure to pass this examination by the end of the second semester results in dismissal from the Ph.D. program. The qualifying placement examination for a student transferring with graduate credit may be waived in part or in full at the discretion of the department.

b) The student must demonstrate by examination the ability to understand the literature of chemistry in either German or Russian. French is also acceptable for students specializing in Physical Chemistry.

c) The student is required to pass cumulative examinations designed to measure such familiarity with active fields of chemistry research as can be obtained by reading the current literature and attending colloquiums and seminars. Cumulative examinations are given in each major field of specialization (Organic Chemistry, Physical Chemistry, etc.) at the rate of three a semester. The student normally starts taking these examinations at the beginning of his second year of residence and continues to take them until he has passed six, including at least three in his own field of specialization. It is recommended that once the student starts taking these examinations, he should continue to take them at a rate of three a semester. Exceptions to cumulative examination requirements

may be made at the discretion of the department. A student may be permitted to take one comprehensive examination, testing his proficiency and breadth of understanding in his areas of specialization, instead of the cumulative examinations.

Admission to Doctoral Research

The student will be admitted to CH 450 Chemistry Research only after:

a) qualification (see examination requirement).

b) completion of the language examination requirement.

c) completion of 30 credits, including a major portion of his required courses.

d) favorable review of the student's entire record by the department.

A student transferring with graduate credit may, with the approval of the department, be admitted to CH 450 on a probationary basis. Such a student must, in order to continue in CH 450, satisfy all the above requirements before beginning his second year of residence.

Continued Qualification

The department reserves the right to engage in continued evaluation of the student's qualification for the Ph.D. program, based on coursework, performance in cumulative examinations, performance in research, and any other criteria it deems relevant.

Candidacy

To be admitted to Ph.D. candidacy, the student must complete 42 credits in courses other than CH 450 and complete the examination requirement.

Dissertation Requirement

The student must prepare and defend a satisfactory dissertation based on original research.

Part-Time and Transient Students

Part-time students who wish to matriculate toward a degree will not be accepted unless they intend to switch to full-time status in the near future.

Transient students not enrolled full-time in another institution will normally be allowed to take only one chemistry course during a semester, and will normally be allowed to take courses for only two semesters (not necessarily consecutive). Transient students enrolled full-time in another institution will be allowed to take more than 6 credits at the School only upon official request of the student's institution, and more than 9 credits only with the approval of the Dean.

Mathematics

Dr. Lewis A. Coburn, Chairman

REQUIREMENTS FOR THE MASTER OF ARTS DEGREE

Credit Requirement

30 credits.

Residence Requirement

A minimum of 24 of the 30 credits must be taken at the School.

Examination Requirement

The student is required to obtain a grade of at least B on a written comprehensive examination covering Real Analysis, Functions of a Complex Variable, and Modern Algebra. He is required to take this examination after accumulating 24 credits. (In order to continue in the Ph.D. program, the student must receive a grade of A in this examination. This examination may not be taken more than twice.)

No thesis is required.

REQUIREMENTS FOR THE DOCTOR OF PHILOSOPHY DEGREE

Credit Requirement

90 credits apportioned between coursework and research as follows:

a) *Coursework*: A minimum of 60 credits.

b) *Research*: A maximum of 30 credits of MA 400 Research. Students completing less than 30 credits in research must take the remainder in coursework, so that the total number of credits taken is 90. The apportionment of the credits in research may vary at the discretion of the student's adviser.

Residence Requirement

A minimum of 24 of the 60 credits in coursework (plus all research credits, or courses taken in lieu of research credits) must be taken at the School.

Examination Requirement

a) The student must pass the Master's written comprehensive examination with a grade of A.

b) The student must pass an oral comprehensive examination. He will be examined in Functions of a Real Variable, Functions of a Complex Variable, Modern Algebra, and two subjects of his choice. In addition to other fields, a student may choose advanced topics from the subjects that are required. This examination must be taken in the semester after which the student has accumulated 48 credits.

c) The student is required to pass an examination in the reading, with use of a dictionary, of scientific literature in two of the languages French, German, Italian, Russian, with one of the languages required to be German or Russian.

Dissertation Requirement

The student must prepare and defend a satisfactory dissertation based on original research.

Mathematics and Science Education

Dr. Miriam S. Grosof, Chairman

Note: Courses in this department have been renumbered. Please check Appendix (page 45) to be sure that you are not repeating a course.

The Department of Mathematics and Science Education offers a program of study in which mastery of subject matter and effective principles of teaching and learning receive equal stress. Three distinct and independent programs are offered through this department:

Master of Science with a major in Mathematics Teaching
Doctor of Philosophy with a major in Mathematics Teaching
Doctor of Philosophy with a major in Physics Teaching

The doctoral programs are not considered to be a continuation of the master's program.

Secondary school teachers (and prospective teachers) who wish to improve their professional and subject-matter preparation are encouraged to undertake coursework on a Transient basis. However, the department feels that the sequence of courses leading to the M.S. degree in Mathematics Teaching—together with the advisory procedures of the department—constitutes a unique opportunity for students to prepare systematically for greater effectiveness and more responsibility.

A student who enters the department as a Transient and then decides to apply for admission as a Regular student in the program leading to the M.S. degree must do so before he has completed 15 credits or has attended for four semesters, whichever is sooner. Otherwise he may

be denied credit toward the degree for coursework taken prior to admission as a Regular student.

REQUIREMENTS FOR MASTER OF SCIENCE DEGREE WITH A MAJOR IN MATHEMATICS TEACHING

This program is designed to prepare secondary school teachers of mathematics and stresses both mathematical content and professional training.

Credit Requirement

33 credits. Courses in which a grade of D, V, or P was earned cannot be applied toward the credit requirement.

Residence Requirement

A minimum of 24 of the 33 credits must be taken at the School.

Course Requirement

A. 21 credits in mathematics, including the following or their equivalent:

a) MS 300.1, 300.2 Sets and Structures

b) MS 310 Linear Algebra

c) MS 330.1, 330.2 Fundamental Concepts of Analysis

d) At least one of the following:

MS 350 Foundations of Euclidean Geometry
MS 355 Introduction to Non-Euclidean Geometry

With permission of the adviser, appropriate science courses may be accepted for credit toward this requirement.

In addition, a student who has not completed the equivalent of the following courses on the undergraduate level must take them at Belfer Graduate School before he can receive the degree:

MS 110.1, 110.2 Analytic Geometry and Calculus I
MS 110.3, 110.4 Analytic Geometry and Calculus II

B. 12 credits in professional education courses, including the following or their equivalent:

a) MS 121 Trends in Teaching Secondary Mathematics

b) 6 additional credits taken at Ferkauf Graduate School of Humanities and Social Sciences, in the psychological foundations of secondary education selected in consultation with the adviser.

c) 3 credits, chosen in consultation with the adviser, in an area appropriate to the interests and previous training of the student.

C. A student who has not previously taken a suitable practice teaching course at the graduate or undergraduate level must take MS 120 Practice Teaching of Secondary School Mathematics OR present satisfactory evidence of having completed one year of paid full-time teaching of secondary-level mathematics in a state-approved school.

A student who has taken such professional education courses at the undergraduate or graduate level may, with permission of his adviser, substitute up to 6 credits of graduate mathematics courses, or of other suitably chosen professional courses. In fulfilling the requirements for the master's degree the student will normally have satisfied the requirements for permanent certification in mathematics in New York State.

A student's program is arranged in conference with the adviser on the basis of his individual deficiencies and interests, and is subject to the adviser's approval. Courses taken without the adviser's advance approval of their suitability may not be credited toward the degree.

Examination Requirement

Comprehensive examinations in mathematics and mathematics education. Each examination may be taken only twice.

No thesis is required.

REQUIREMENTS FOR DOCTOR OF PHILOSOPHY DEGREE WITH A MAJOR IN MATHEMATICS TEACHING

This program is designed to prepare college teachers of mathematics. It is directed toward the training of mathematicians interested primarily in college teaching rather than in research.

The student is encouraged to select courses which will give breadth of coverage instead of narrow specialization, in the hope that he will be better prepared for undergraduate teaching. Each student's program and choice of electives are determined in consultation with his adviser.

Credit Requirement

90 credits apportioned between coursework and research as follows:

a) *Coursework:* A minimum of 72 credits.

b) *Research:* A maximum of 18 credits of MS 400 Research. Students completing less than 18 credits of MS 400 must take the remainder in coursework so that the total number of credits taken is 90. At the discretion of the adviser, the student may be given less than 18 credits for research and then be required to take more than 72 credits of coursework.

Residence Requirement

A minimum of 36 of the 72 credits in coursework (plus all research credits, or courses taken in lieu of research

credits) must be taken at the School. The 36 credits must include 6 credits of MS 399.1, 399.2 Literature Seminar.

Course Requirement

a) 54 credits from the courses offered by the Department of Mathematics, or their equivalent, excluding credit for MS 400.

b) 6 credits—MS 399.1, 399.2 Literature Seminar

c) 3 credits—MS 390 Methods and Problems of Teaching College Mathematics

d) 9 credits in electives

Examination Requirement

a) A student entering the program with a master's degree from another school is required to pass a master's level examination in mathematics by the time he has completed 15 credits at Belfer Graduate School. A student entering with a master's degree in mathematics from Belfer Graduate School is not required to take this examination.

b) The student must pass an examination demonstrating his ability to understand the literature of mathematics in two of the following languages: French, German, Italian, Russian.

c) The student must pass a doctoral comprehensive examination in mathematics before beginning research for the dissertation. He will be examined in Functions of a Real Variable, Functions of a Complex Variable, Modern Algebra, and a fourth subject to be chosen by him. In addition to other fields a student may choose advanced topics from the subjects that are required.

Teaching Experience Requirement

One year of satisfactory teaching of mathematics at an accredited college.

Dissertation Requirement

The student must submit an expository and analytical study of some significant phase of mathematical thought or development.

REQUIREMENTS FOR DOCTOR OF PHILOSOPHY DEGREE WITH A MAJOR IN PHYSICS TEACHING

This program is designed to prepare college teachers of physics. It is directed toward the training of physicists interested primarily in college teaching rather than in research.

The student is encouraged to select courses which will give breadth of coverage instead of narrow specialization, in the hope that he will be better prepared for undergraduate teaching. Each student's program and choice of electives are determined in consultation with his adviser.

Credits Requirement

90 credits apportioned between coursework and research as follows:

a) *Coursework:* A minimum of 72 credits.

b) *Research:* A maximum of 18 credits of MS 400 Research. Students completing less than 18 credits of MS 400 must take the remainder in coursework so that the total number of credits taken is 90. At the discretion of the adviser, the student may be given less than 18 credits for research and then be required to take more than 72 credits of coursework.

Residence Requirement

A minimum of 36 of the 72 credits in coursework (plus all research credits, or courses taken in lieu of research credits) must be taken at the School. The 36 credits must include 6 credits of MS 399.1,399.2 Literature Seminar.

Course Requirement

a) 54 credits from the courses offered by the Department of Physics, or their equivalent, excluding credit for MS 400.

b) 6 credits—MS 399.1,399.2 Literature Seminar

c) 3 credits—MS 392 Methods and Problems of Teaching College Physics

d) 9 credits in electives

Examination Requirement

a) A student entering the program with a master's degree from another school is required to pass a master's level examination in physics by the time he has completed 15 credits at Belfer Graduate School. A student entering with a master's degree in physics from Belfer Graduate School is not required to take this examination.

b) The student must pass an examination demonstrating his ability to understand the literature of physics in two of the following languages: French, German, Italian, Russian.

c) The student must pass a doctoral comprehensive examination in physics before beginning research for the dissertation.

Teaching Experience Requirement

One year of satisfactory teaching of physics at an accredited college.

Dissertation Requirement

The student must submit an expository and analytical study of some significant phase of the development of physics.

PHYSICS

Dr. Joel L. Lebowitz, Chairman

REQUIREMENTS FOR THE MASTER OF ARTS DEGREE

Two sequences of courses are offered: the traditional curriculum, which provides the foundation for research in physics; and a curriculum in systems physics. Consisting of courses numbered PH 150-199, the systems physics curriculum is designed for students with a modest background in undergraduate physics who desire a basic professional knowledge of physical measurement techniques, mathematical modeling, and solution generating procedures, for use in a career area other than physics. Students in one curriculum are permitted to take courses from the other sequence as well.

Credit Requirement

30 credits.

Residence Requirement

A minimum of 24 of the 30 credits must be taken at the School.

Examination or Case Study Requirement

The student is required either to pass a written problem-solving examination or to present a satisfactory case study.

It is strongly recommended that students pursuing the traditional sequence of courses take the written examination, which covers traditional first-year graduate level material.

A student who takes courses primarily in the systems physics curriculum is required to present a case study of a practical system that includes the formulation of a mathematical model of the system and a quantitative investigation of the model.

REQUIREMENTS FOR THE DOCTOR OF PHILOSOPHY DEGREE

Credit Requirement

90 credits apportioned betwen coursework and research as follows:

a) *Coursework:* A minimum of 60 credits.

b) *Research:* A maximum of 30 credits of PH 400 Research. Students completing less than 30 credits in research must take the remainder in coursework, so that the total number of credits taken is 90. The apportionment of the credits in research may vary at the discretion of the student's adviser.

Residence Requirement

A minimum of 24 of the 60 credits in coursework (plus all research credits, or courses taken in lieu of research credits) must be taken at the School.

Examination Requirement

a) The student must demonstrate a comprehensive knowledge of physics and the ability to do independent research. An evaluation of the student's knowledge and ability will be made by the entire physics faculty and will be based on coursework, any original research accomplishment, and written and oral examinations. The student is allowed to take the written examination a maximum of three times during the equivalent of his first two years of full-time graduate study. The written examination may be waived by the faculty upon formal application if a student presents original research of exceptional quality.

b) The student must demonstrate by examination the ability to understand the literature of physics in one of the following languages: Chinese, French, German, Italian, Japanese, Russian.

Dissertation Requirement

The student must prepare and defend a satisfactory dissertation based on original research.

EMPLOYER'S EXHIBIT No. 22

Programs in

EDUCATION

GUIDANCE

PSYCHOLOGY

SOCIAL SCIENCES

YESHIVA UNIVERSITY

FERKAUF

GRADUATE SCHOOL

OF HUMANITIES

AND SOCIAL SCIENCES

CATALOG 1972-74

55 FIFTH AVENUE • NEW YORK, N.Y. 10003

Ferkauf Graduate School of Humanities and Social Sciences

Administration

Joseph B. Gittler, Ph.D.	Dean
Blume B. Weiner, Ed.D.	Assistant Dean, Summer Session
Sylvia Brick, M.A.	Assistant to the Dean
Beatrice H. Fleisher, B.S.	Librarian, Graduate Center Library
Jason Jacobowitz, M.A.	Assistant Registrar
Samuel J. Gayer, B.A.	Assistant to the Director of Admissions

Faculty

Moshe Anisfeld, Associate Professor of Psychology. B.A., Bar-Ilan University; M.A., Ph.D., McGill University.

Alvin L. Atkins, Associate Professor of Psychology. B.A., Yale University; M.A., Ph.D., Columbia University.

Carl Auerbach, Assistant Professor of Psychology. B.A., Reed College; Ph.D., University of Pennsylvania.

Herman C. Axelrod, Adjunct Assistant Professor of Jewish Education. B.S., M.A., Columbia University; Ph.D., Yeshiva University.

Ira Belmont, Adjunct Associate Professor of Educational Psychology and Guidance; Associate Professor of Pediatrics, Albert Einstein College of Medicine, Yeshiva University. B.A., Brooklyn College; M.A., City College of New York; Ph.D., New York University.

Avrum Ben-Avi, Supervisor in Psychotherapy. B.A., M.A., Ph.D., New York University; Certificate, William

---

For the year 1971-72.

Alanson White Institute. Adjunct Professor of Psychology, New York University.

Irving Bialer, Adjunct Associate Professor of Special Education. B.A., Brooklyn College; M.A., Ph.D., George Peabody College for Teachers. Principal Research Scientist, Office of Research, New York State Department of Mental Hygiene.

Herber G. Birch, Visiting Professor of Educational Psychology and Guidance; Professor of Pediatrics, Albert Einstein College of Medicine, Yeshiva University. B.A., M.D., Ph.D., New York University.

Morton Bortner, Professor of Education; Joseph P. Kennedy Jr. Foundation Scholar. B.A., University of Pennsylvania; M.A., Ph.D., Columbia University.

Menachem M. Brayer, Professor of Education and Biblical Literature; Chairman, Department of Jewish Education. Baccalaureate Diploma, Botosani, Romania; Ordination, Yeshiva of Kishinev; M.H.L., D.H.L., Ph.D., Yeshiva University.

Benjamin Brickman, Visiting Professor of Jewish Education. B.A., City College of New York; M.A., Ph.D., Columbia University. Professor Emeritus of Education, Brooklyn College.

Norman M. Brier, Visiting Assistant Professor of Educational Psychology and Guidance. B.A., Brooklyn College; M.S., Ph.D., Yeshiva University. Director, Adolescent Service, Children's Evaluation and Rehabilitation Clinic, Albert Einstein College of Medicine, Yeshiva University.

Norman M. Bronznick, Associate Professor of Jewish Education. B.A., Yeshiva University; M.A., Ph.D., Columbia University.

Paul C. Buchanan, Professor of Education. B.A., Dakota Wesleyan University; M.A., University of Nebraska; Ph.D., University of Southern California.

S. Alan Cohen, Associate Professor of Education. B.S., Suffolk University; M.Ed., Howard University; Ed.D., Boston University.

Max Dubrow, Adjunct Associate Professor of Special Education. B.A., M.S., City College of New York; Ph.D., Columbia University. Director, Training Center and Workshop, Association for the Help of Retarded Children.

Abraham G. Duker, Professor of History and Social Institutions, Yeshiva University. B.A., City College of New York; Ph.D., Columbia University.

Ann D. Duncan, Assistant Professor of Education. B.S., M.A., University of Minnesota; Ph.D., University of Kansas.

Morris N. Eagle, Professor of Psychology. B.S., City College of New York; Ph.D., New York University.

E. Richard Feinberg, Adjunct Assistant Professor of Special Education; Assistant Professor of Pediatrics and Psychiatry, Albert Einstein College of Medicine, Yeshiva University. B.A., Johns Hopkins University; M.D., Tufts University. Director, Bronx Children's Psychiatric Hospital.

Angel, Fiasche, Adjunct Professor of Educational Psychology and Guidance. M.D., School of Medicine, National University of Buenos Aires. Director of Residency Training, Community Mental Health Center, Maimonides Medical Center.

Joshua A. Fishman, Distinguished University Research Professor of Social Sciences. B.S., M.S., University of Pennsylvania; Ph.D., Columbia University.

Roy Gill, Consultant in Psychology. B.A., University of Oklahoma; J.D., Yale University; M.D., Cornell University; Certificate, William Alanson White Institute.

Joseph B. Gittler, University Professor of Sociology. B.S., M.A., University of Georgia; Ph.D., University of Chicago.

Allan C. Goldstein, Associate Professor of Psychology; Chairman, Department of Psychology. B.A., Boston University; M.A., Tufts University; Ph.D., Yale University.

Herbert Goldstein, Professor of Education. B.A., M.A., San Francisco State College; Ed.D., University of Illinois.

Norman G. Gordon, Associate Professor of Psychology. B.A., Brooklyn College; M.A., New School for Social Research; Ph.D., New York University.

Jack Gorelick, Visiting Assistant Professor of Special Education. B.A., University of Scranton; M.A., New York University; Ph.D., Yeshiva University. Director, Occupational Day Center, Association for the Help of Retarded Children.

Ruth Gottesman, Adjunct Assistant Professor of Educational Psychology and Guidance. B.A., Barnard College; M.A., Ed.D., Columbia University. Chief of Psychoeducational Services, Children's Evaluation and Rehabilitation Clinic, Albert Einstein College of Medicine, Yeshiva University.

Paul S. Graubard, Associate Professor of Education, B.A., University of Michigan; M.A., Columbia University; Ed.D., Yeshiva University.

Jules M. Greenstein, Associate Professor of Psychology. B.A., M.A., City College of New York; Ph.D., Rutgers University.

Simeon L. Guterman, Professor of History. B.A., M.A., Ph.D., Harvard University.

Beatrice Harris, Assistant Professor of Psychology and Education. B.A., University of Connecticut; M.S., Brooklyn College; Ph.D., New York University.

Aaron Heshkowitz, Associate Professor of Psychology. B.A., Brooklyn College; M.A., New School for Social Research; Ph.D., University of Kansas.

Irma Hilton, Adjunct Associate Professor of Psychology. B.A., M.A., Cornell University; Ph.D., Columbia University.

Louis Hofmann, Adjunct Assistant Professor of Educational Psychology and Guidance. B.A., Calvin College;

M.A., Ph.D., Michigan State University. Research Associate, Teaching and Learning Research Corporation.

Vivian M. Horner, Assistant Professor of Psycholinguistics and Education. B.A., M.A., Ohio State University; Ph.D., University of Rochester.

Joan S. Hyman, Visiting Assistant Professor of Curriculum and Instruction. B.A., Bucknell University; M.S., State University College at New Paltz; Ed.D., Yeshiva University. Director of Educational Consultants, School and Systems Division, Random House.

Adelaide Jablonsky, Associate Professor of Education. B.A., Hunter College; M.A., Ed.D., Columbia University.

Paul I. Jacobs, Associate Professor of Psychology and Education. B.S., City College of New York; Ph.D., New York University.

Vera P. John, Associate Professor of Psychology and Education. B.A., Barnard College; Ph.D., University of Chicago.

Lawrence M. Kasdon, Associate Professor of Education. B.A., University of California; M.A., Ed.D., Stanford University.

Camilla Kemple, Supervisor in Psychological Appraisal. B.A., Wellesley College; M.A., Columbia University.

Shelly P. Koenigsberg, Associate Professor of Education. B.A., Hunter College; M.A., Harvard University; Ed.D., Columbia University.

Arthur Lefford, Associate Professor of Psychology and Education; Chairman, Department of Educational Psychology and Guidance. B.A., Ohio State University; M.A., Ph.D., New York University.

Ruth M. Lesser, Associate Professor of Psychology, B.A., University of Wisconsin; M.A., New School for Social Research; Ph.D., Postdoctoral Certificate in Psychology, New York University.

Conalee Levine-Schneidman, Supervisor in Psychotherapy. B.A., Brooklyn College; M.A., Ph.D., Postdoctoral Certificate in Psychotherapy and Psychoanalysis, New York University.

Leah Levinger, Supervisor in Psychological Appraisal. B.A., Sarah Lawrence College; Ph.D., New York University. Diagnostic Consultant, Veterans Administration.

Boris M. Levinson, Professor of Psychology. B.S., M.S., City College of New York; Ph.D., New York University.

Joseph Levinson, Assistant Professor of Philosophy and Education. B.S., New York University; M.A., Ohio State University; Ed.D., Harvard University.

Edwin I. Levy, Supervisor in Psychotherapy. B.A., City College of New York; M.A., University of Pennsylvania; Ph.D., Adelphi University; Postdoctoral Certificate in Psychology, New York University. Associate Professor, Department of Student Personnel Services; Head, Division of Counseling and Psychological Services, City College of New York.

Martin B. Miller, Associate Professor of Education. B.A., M.S., University of Miami; Ph.D., George Peabody College for Teachers.

George S. Mischio, Lecturer in Special Education. B.A., Newark State College; M.S., University of Illinois. Development Program Specialist, Curriculum Research and Development Center in Mental Retardation, Yeshiva University.

Fredric B. Nalven, Visiting Associate Professor of Educational Psychology and Guidance. B.A., City College of New York; M.A., Ph.D., Boston University. Associate Professor of Social Science (Psychology), New York City Community College.

Julian Roberts, Professor of Education; Chairman, Department of Curriculum and Instruction. B.A., M.A., Columbia University; Ed.D., Harvard University.

Joseph Safran, Associate Professor of Education and Hebrew Literature. Ordination, Jewish Theological Seminary, Vienna; Ph.D., University of Vienna.

Alvin I. Schiff, Adjunct Professor of Jewish Education. B.A., Ph.D., Yeshiva University; M.A., Columbia University. Executive Vice President, Board of Jewish Education, Inc.

Dorothy J. Sievers, Associate Professor of Education, B.S., Northwestern University; M.A., University of New Mexico; Ph.D., University of Illinois.

Solomon S. Simonson, Professor of Education. B.A., M.A., Brooklyn College; LL.B., St. Lawrence University; Ph.D., Northwestern University.

Erwin Singer, Supervisor in Psychotherapy. B.S.S., City College of New York; M.A., Ph.D., New York University; Certificate, William Alanson White Institute. Professor of Education, City College of New York.

Solomon N. Skaist, Visiting Assistant Professor of Jewish Education. B.S., Columbia University; D.H.L., Yeshiva University. Educational Consultant, Department of Yeshivot, Board of Jewish Education, Inc.

David D. Stein, Visiting Assistant Professor of Educational Psychology and Guidance; Assistant Professor of Psychiatry, Albert Einstein College of Medicine, Yeshiva University. B.S., Ph.D., University of California; M.S., Los Angeles State College.

Nathan Stillman, Professor of Education. B.A., Union College; M.A., Ph.D., New York University.

Edward Tauber, Adjunct Professor of Psychology. Ph.B., Yale University; M.D., Johns Hopkins University. Senior Fellow, Training and Supervising Analyst, William Alanson White Institute.

Dan Vogel, Professor of English. B.A., Brooklyn College; M.A., Rutgers University; Ph.D., New York University.

Gilbert Voyat, Associate Professor of Psychology. Licence and Doctorate in Psychology, University of Geneva.

Bluma B. Weiner, Professor of Education; Chairman, Department of Special Education. B.Ed., State University College at Oswego; M.A., University of Michigan; Ed.D., University of Illinois.

Jonathan H. Weiss, Associate Professor of Psychology. B.A., Brooklyn College; Ph.D., University of Rochester.

Paul C. Whitworth, Psychiatric Social Worker, Psychological Center. B.S., Kent State University; M.S.S.W., University of Wisconsin.

Doxey A. Wilkerson, Professor of Education. B.A., M.A., University of Kansas; Ph.D., New York University.

Benjamin Wolstein, Supervisor in Psychotherapy. B.A., Yeshiva University; M.A., Ph.D., Columbia University; Certificate, William Alanson White Institute. Clinical Professor of Psychology, Adelphi University.

Jing-Jyi Wu, Assistant Professor of Psychology and Education. B.A., National Chengchi University, Taiwan; Ph.D., University of Minnesota.

Lillian J. Zach, Associate Professor of Psychology and Education. B.A., Hunter College; M.S., City-College of New York; Ph.D., Yeshiva University.

Yeshiva University

Yeshiva University is a private institution under Jewish auspices chartered by the State of New York; it is accredited by the Middle States Association of Colleges and Secondary Schools and by specialized professional agencies and is a member of the College Entrance Examination Board. The undergraduate colleges and graduate schools of natural sciences, social sciences, and humanities offer programs leading to bachelor's, master's, and doctoral degrees.

In addition to its extensive teaching programs, the University conducts a network of affiliates, community service agencies, and a widespread program of research, and publishes several scholarly journals.

Yeshiva University traces its origins to Yeshiva Eitz Chaim, founded in 1886 on New York's Lower East Side. Ten years later the Rabbi Isaac Elchanan Theological Seminary was founded there, and in 1915 the two schools merged under the name of the latter.

Under the dynamic leadership of Dr. Bernard Revel, who served as president from 1915 until his death in 1940, the institution embarked on a plan of educational development and growth. In 1929 the institution moved to its present Main Center in Manhattan's Washington Heights. Liberal arts programs began with the establishment of Yeshiva College in 1928, and the first graduate curriculum—in Semitics—was introduced in 1935.

The election of Dr. Samuel Belkin as president in 1943 inaugurated a new era of expansion. University status was granted two years later by the New York State Board of Regents. The institution initiated programs of professional education, research, and special projects to advance the well-being of many constituencies. In 1954 a college of liberal arts and sciences for women was founded and, in more recent years, graduate schools of science, medicine, social work, and humanities and social sciences.

The University's five undergraduate schools and seven graduate schools are located in Manhattan (Main Center, Washington Heights; Midtown Center, 245 Lexington Avenue; Graduate Center, 55 Fifth Avenue) and the Bronx (Eastchester Road and Morris Park Avenue). The Main, Midtown, and Bronx Centers have dormitory and dining facilities. Each school is so conducted as to assure friendly, informal, and educationally sound relationships between students and faculty. All units thus retain the character and virtues of small institutions.

The Mendel Gottesman Library at the Main Center is a $5,000,000, six-story, block-long central university library with a capacity of 500,000 volumes. Here are the University Museum, University Archives, and Rare Book and Manuscript Room. In addition there are specialized libraries at all the centers.

Its present programs and plans for the future reflect Yeshiva University's ever-growing concern with America's most pressing needs. For more than eight decades the University has taken a position of leadership in higher education, serving the community and the nation as a whole.

Ferkauf Graduate School of Humanities and Social Sciences

Ferkauf Graduate School of Humanities and Social Sciences was initially established in 1957 as the Graduate School of Education. The School was renamed in 1965 to honor the vision and generosity of Eugene and Estelle Ferkauf. In 1966 the School received its present designation with announced plans to expand into the areas of the humanities and social sciences.

A STATEMENT OF PURPOSE

The primary goal of Ferkauf Graduate School is to extend and transmit knowledge in the humanities and social sciences through graduate-level research, instruction, and professional training. It brings together scholars and students from a variety of disciplines, pursuing their own specializations and priorities. An interdisciplinary and generic approach to problems of modern life and thought is sought and encouraged.

The School is concerned with education in the most inclusive and rigorous sense of the word. The understandings, beliefs, skills, and emotions of pupils and teachers, administrators and community leaders, parents and playmates are all inescapable aspects of teaching and learning. An exhaustive and sensitive awareness of education therefore depends on a study of history as well as psychology, a mastery of sociology and research methods, a perusal of philosophy and literature, a grasp of conceptually integrated theories and empirically validated facts in a score of different but related fields.

RESEARCH AND DEMONSTRATION PROJECTS

Ferkauf Graduate School is simultaneously a *graduate school* and a *professional school.* As a graduate school its primary concern is to expand the frontiers of knowledge in the fundamental sciences of human behavior. As a professional school it is deeply concerned that the behavioral arts be firmly and rigorously rooted in the behavioral sciences. Therefore, both as graduate school and professional school, Ferkauf Graduate School is dedicated to research on the part of faculty and students alike. Even though the School is still a very young institution, several outstanding research projects have already been conducted under its auspices with the assistance of governmental agencies and private foundations. Among the areas studied in the last several years are: theoretical problems in memory and perception (National Institute of Mental Health and National Science Foundation); non-English language resources of American ethnic groups (U.S. Office of Education, Title VI); inventory description and evaluation of remedial and compensatory school programs for socially disadvantaged children and youth (College Entrance Examination Board and Old Dominion Foundation, through the National Scholarship Service and Fund for Negro Students); cognitive development in children with brain damage (U.S. Office of Education); development of a social learning curriculum for the mentally retarded (U.S. Office of Education).

As research findings on human behavior accumulate, the training of teachers and advanced psychoeducational specialists of various kinds must be modified accordingly. The School has engaged in many experimental demonstration and training programs organized to improve the professional preparation of teachers, guidance counselors, special education personnel, youth workers, and specialists in working with children, hindered by severe social and cultural disadvantages. Among training and demonstration projects conducted during the past few years are: Teaching Fellowship Program (Fund for the Advancement of Education); training teachers in science and mathematics (New York State Education Department and National Science Foundation); training teachers of

disadvantaged youth, grades 7-9, in reading and language arts (U.S. Office of Education, Title XI).

Perception Consortium

Ferkauf Graduate School has entered into an agreement with New York University and the New School for Social Research to establish a consortium in the field of perception. Other nearby universities will participate in the near future. The consortium will combine the facilities of the three institutions to enable faculty and students to conduct research and participate in joint seminars in perception.

Curriculum Research and Development Center in Mental Retardation

Through the sponsorship of the U.S. Office of Education, Ferkauf Graduate School has established this center to develop and disseminate a comprehensive program in social learning for classes for the educable mentally retarded, extending from school-entering age through the secondary level.

Reading and Language Arts Center (Department of Curriculum and Instruction)

Housing a curriculum material library in reading and language arts, the center conducts the Reading Clinic—a training-research resource enabling advanced doctoral students to work with children and adults with learning disabilities. The center sponsors all doctoral studies in the School's Ed.D. program for reading specialists, and provides consultative services.

Special Education Demonstration Center

The center is used by the Department of Special Education for student and faculty research projects, training of students in clinical teaching procedures, and demonstration and evaluation of new pedagogical methods. Here are such facilities as one-way vision mirrors, closed-circuit television, and video-taping equipment, together with a collection of curriculum and test materials.

Psychological Center

An integral part of the School, the center implements the practicum training of the Departments of Psychology, Special Education, and Educational Psychology and Guidance. Referrals may be made by educational institutions, social and welfare organizations, youth agencies, and professional personnel.

Free Preschool Program

The unique program helps young children acquire skills and training from child development specialists and provides graduate students with field experience in learning and development. It is operated by the Department of Educational psychology and Guidance and staffed by doctoral students in the School Psychology Program, which is supported by the National Institutes of Health.

Suicide Prevention Program.

Through a gift by the Bruce Mayrock Foundation, a clinic geared to the needs of young people aids potential suicides and their families. A National Institute of Mental Health-sponsored seminar trains professionals in the detection, diagnosis, and treatment of such persons.

GRADUATE CENTER LIBRARY

The Graduate Center Library maintains basic collections in psychology, education, and social work, as well as selections of books and materials in other areas, especially the social sciences and Judaica. It contains approximately 65,000 volumes, over 20,000 pamphlets, a special reprint collection, and the Kallen Collection—a rapidly expanding selection of curriculum materials, mainly syllabuses and curriculum aids from city and state school systems throughout the United States for both normal and exceptional children, as well as a new textbook collection intended to cover the widest possible range of new and advanced methods in teaching. A similar collection has been organized in the field of Jewish education.

Although the Graduate Center Library serves primarily Ferkauf Graduate School and Wurzweiler School of Social

Work, its services are available to all students at the University. Students at the Ferkauf or Wurzweiler School may also utilize the other five libraries and additional special collections of Yeshiva University. Cooperative agreements permit Ferkauf Graduate School doctoral candidates to work in the libraries of other universities and their doctoral candidates to work here.

Admission: Policies and Procedures

INQUIRIES

All communications and supporting documents pertaining to admission should be sent to the Office of Admissions, Yeshiva University, 55 Fifth Avenue, New York, N.Y. 10003.

CATEGORIES OF STUDENTS

Only in the case of applicants admitted as Regular students or Provisional students is there any commitment by the School to the student in terms of status. In the case of the Provisional student this is a limited commitment.

Regular Students

Students admitted with permission to work toward degrees are classified as Regular. A Regular student who has been admitted with a warning must achieve an acceptable average to maintain this status. A Regular student admitted with a condition must make up his condition within the time limit set by the Office of Admissions to maintain this status.

Provisional Students

Applicants who meet the quantitative requirements for entrance but not the qualitative requirements may be admitted as Provisional students. If they achieve an acceptable average, they may be reclassified as Regular. However, they are bound by any changes in degree requirements made prior to their attainment of Regular status, and are considered to be on academic probation.

Transient Students

Students who wish to enroll for courses to meet their particular needs without entering a degree program are classified as Transient. Included are the following: 1) graduate students or upper seniors in good standing at other colleges or universities who enroll for courses which they will transfer to their home schools; 2) teachers who wish to take courses for state certification or increment credit; 3) qualified individuals who wish to study subjects in which they are interested. Normally students in this category may enroll for not more than a total of 9 credits. The records of those who wish to continue study as Transient students are reviewed upon the completion of 9 credits. Ferkauf Graduate School reserves the right not to grant credit toward a degree for courses taken on this basis if the student should later be admitted to a degree program.

Visiting Students

Students enrolled with Regular or Provisional status in another school of Yeshiva University may register for a limited number of courses at Ferkauf Graduate School as Visiting students, with the permission of their home school and the Dean of Ferkauf Graduate School.

Unclassified Students

Applicants whose records are not complete or have not yet been evaluated by the time of registration, but who seem to be qualified on the basis of the records available, may be allowed to register for courses as Unclassified students pending the filing or evaluation of their credentials. This status may be continued for a period not exceeding one semester. Such students enroll at their own risk and may be dropped at any time if their complete records are not acceptable or are not available. They are bound by any changes in degree requirements made prior to their attainment of Regular status.

Special Students

Applicants who give evidence of fitness by reason of maturnity and previous training and demonstrate ability to maintain standards of progress, but do not qualify for admission under the categories listed above, may be admitted as Special students. No credit is allowed for work completed under this classification. Normally students in this category may not enroll for more than a total of 9 credits.

There is no category of "auditor." A student admitted under one of the above categories may be permitted to audit a class with the written permission of the instructor, the department chairman, and the Dean. Such a student does not participate in classwork and is not given examinations; he receives no grade and no record of his auditing is kept, so that no transcript can be issued nor any kind of credit or recognition given.

All students, regardless of their status, must meet all standards and comply with all regulations and requirements.

ADMISSION CRITERIA

Ferkauf Graduate School recognizes that certain intellective and nonintellective (personality and character) traits are essential for the successful graduate training and subsequent professional functioning of teachers, psychologists, and related specialized personnel.

Admission is granted to applicants who hold a bachelor's degree or its equivalent from an accredited college or university, and who give promise of meeting the standards set by the School as well as the demands of the particular program to which they apply.

Individual departments may in addition set their own requirements concerning specific undergraduate majors, course distributions, interviews, and adequate scores on appropriate tests.

Criteria for admission to doctoral programs are listed on page 32.

The Office of Admissions does not determine the eligibility of candidates for the various certificates and licenses issued by city and state boards and departments of education. Aspirants to such positions are strongly advised to obtain information regarding such requirements directly from the agencies in question.

Under the admission policy of the University there is no discrimination in regard to sex, religion, age, race, color, or national origin.

ADMISSION PROCEDURE

A. A student seeking admission to a degree or certificate program must complete the following procedure for each program to which he is applying:

1. Submit the application for admission in duplicate together with the required fee to the Office of Admissions.
2. Arrange for each undergraduate and graduate school he has attended to send two official copies of his transcript directly to the Office of Admissions.

   An applicant for a doctoral program must also submit in duplicate his scores on the Graduate Record Examinations Aptitude test and the appropriate Advanced test.
3. Arrange for two references to be forwarded to the Office of Admissions.
4. Meet state certification requirements if he seeks admission into a program which requires certification for admission, and submit official documents indicating such certification.

B. A student desiring to enroll for courses without qualifying for a degree or certificate must submit one of the following credentials:

a) a statement certifying to matriculated status at another institution with permission to take courses at Ferkauf Graduate School.

b) an official statement or transcript certifying the receipt of a bachelor's degree sent directly to the Office of Admissions from the issuing institution.

Transient students file an application at the time of registration.

It is the responsibility of the applicant to assure that his application and all supporting documents are received in the Office of Admissions. Claims of loss, delay in the mails, or failure of others to transmit necessary documents cannot be considered for programs in which application deadlines are specified. All credentials become the property of Yeshiva University and may not be returned to the student.

Graduate Record Examinations

All students who wish to study toward a doctoral degree are required to take the Graduate Record Examinations. Several departments require these examinations for admission to master's-level programs. Specific requirements are listed under each program in this Catalog. Graduate Record Examinations are given nationally several times a year.

Students applying for admission in September should take the tests no later than the previous April, and certain departments have established even earlier deadlines. For information about when and where the Graduate Record Examinations can be taken, the applicant should write to the Educational Testing Service, Box 955, Princeton, N.J. 08540, or 1947 Center Street, Berkeley, Calif. 94704, whichever is closer to his home, and ask for the bulletin of information on the GRE.

Special administrations are offered in the following cities on dates other than those for the regular administrations of the National Program for Graduate School Selection: Austin, Boston, Chicago, Los Angeles, New York, San

Francisco, and Washington, D.C. For information about these administrations, write to the Educational Testing Service.

Foreign Students

Foreign students applying for admission to the School are strongly advised to file applications for admission well in advance of the announced deadline in order to insure sufficient time for evaluation. They should have forwarded to the Office of Admissions complete transcripts of previous academic training and a certified translation of each document written in a foreign language. Such students are advised to secure a copy of Form A5-2, "Foreign Students and Admission to Yeshiva University," from the Office of Admissions.

In addition to all admission requirements, proficiency in English—both verbal and written comprehension and expression—is a prerequisite for study. Applicants whose native language is not English must submit acceptable proof of their proficiency in English before being considered for admission. Normally the student is expected to demonstrate proficiency in English by receiving an acceptable score on the Test of English as a Foreign Language, administered by the Educational Testing Service. This test is given in various locations throughout the world several times a year. Information on the location of testing centers and other pertinent information can be obtained by writing to: Test of English as a Foreign Language, Educational Testing Service, Princeton, N.J. 08540.

Foreign students may be admitted with an entrance condition in English which must be satisfised by passing courses in remedial English before their programs of study begin, or (with special permission) during their first year of study.

Regulations

Student Programs

All programs of study must be planned with, and receive the approval of, the student's adviser and his department

chairman. In granting approval the department chairman will consider the student's previous academic record and whether or not the prerequisites set forth by the department have been met.

Students may register in one department only. In special instances and with the approval of the chairmen's student may take an interdisciplinary course of study.

Allocation Charts

The student must file an allocation chart, or planned course of study, in the Office of the Registrar during his first semester of work toward a degree. The allocation chart delineates degree requirements and how they will be met. A second allocation chart showing how all requirements have been met, and signed by the department chairman, must be filed at the completion of the degree program in order to be eligible for the degree.

Grades

The work of each student is graded on the following basis:

A Excellent

B Good

C Fair (lowest passing grade)

F Failed

G Dropped by student (equivalent to failure)

Inc Incomplete

M Missing (no grade reported)

P Passed (generally used for nondegree courses)

R Repetition of doctoral seminar required

S Satisfactory progress in doctoral seminar; credit (if any) granted only when dissitation out has been accepted

W Withdrew without penalty

Y Year course; second semester grade applies to both semesters

The symbols + and — suffixed to the grades of A, B, and C indicate the upper and lower thirds, respectively, of the ranges covered by those grades.

Withdrawal from courses requires the permission of the Registrar. Unless this permission is obtained, the student will receive a grade of G, equivalent to failure, in those courses from which he has absented himself. Except under unusual circumstances, withdrawal from a course will not be permitted after the first month of sessions.

The dates by which students may withdraw without penalty and remove Inc grades are listed in the Academic Calendar. The date listed as the last day to remove an Inc is the day by which the final grade must be recorded by the Office of the Registrar. Students should therefore arrange for examination and submit reports, papers, etc. sufficiently in advance to permit the instructor to read and evaluate the material and submit the grade by this date.

Students graded Inc who do not complete the required work and have a final grade submitted by the date listed in the Academic Calendar will have the Inc changed to an F, unless permission for an extension is requested by the student on Form T4.3 and is granted by the instructor and approved by the department chairman and the Dean.

Course Requirements

Course requirements usually include extensive readings and satisfactory completion of oral reports and term papers. In all except laboratory courses, students are required to take a final written examination.

The credit value of each course is given in terms of semester hours. Because of the large amount of outside preparation required for graduate courses, 3 credits are given for courses meeting for at least 1,500 minutes of

lecture, recitation, and examinations (usually in the form of fourteen 110-minute periods).

Enrollment and Attendance

Students are expected to attend all meetings of classes in which they are registered. They should ascertain from the instructors what the attendance requirements are for specific courses.

Students may not enroll in a course after its third meeting.

Academic Average

Each grade has a numerical value, as follows: A=4; B=3; C=2; F=0. A + is counted as one third of a quality point higher and a — as one third of a quality point lower. When the numerical value is multiplied by the credit value of the course, the resulting figure is known as the number of quality points.

The student's average rating is computed by dividing the number of quality points earned by the total number of credits completed, including courses failed. The average is rounded to the third decimal place.

Grades achieved at other schools are not averaged in with a student's record at Ferkauf Graduate School; only credit is granted on transfer.

Academic Load

A full-time student is one who carries 12 or more credits during a fall or spring semester. Twelve credits is the normal maximum load permitted, but with the permission of the department chairman, 15 credits may be taken.

More than 15 credits are permitted only when required of all full-time students enrolled in specific programs or with permission of the Dean.

Full-time status may be granted under special circumstances to students who are not registered for 12 credits

but who carry an academic load equivalent to 12 credits. Requests should be filed on Form R31 in the Office of the Registrar.

During summer sessions full-time students are permitted to carry a maximum credit load equal to the number of weeks of study plus one.

A part-time student is one who carries less than 12 credits during a fall or spring semester, or less credits in a summer session than the number of weeks in that session.

Students who work or attend another school may not be full-time students. Such individuals are ordinarily limited to 6 credits during a fall or spring semester and 3 credits during a summer session. In exceptional circumstances and with the permission of the department chairman they may take 9 credits during a fall or spring semester and 4 credits during a summer session.

Maintenance of Academic Standards

Students are required to maintain satisfactory standards of scholastic performance.

Candidates for master's degrees and Specialist's Certificates must maintain a 3.0 average.

Candidates for doctoral degrees must maintain a 3.0 average and no C grades will be credited toward the degree.

Each department may set higher standards than those specified above for its degree candidates. It is the responsibility of the student to be familiar with departmental scholastic standards.

Probation

A student whose average falls below 3.0 any semester is placed on probation for the following semester, with the exception that students may have one unbalanced C or two unbalanced B— grades for every 30 credits. Grades of C do not count toward the doctorate.

Leaves of Absence

Students who are unable to return to the School because of government service, illness, personal or certain academic reasons or who wish to study at other institutions, must request a formal leave of absence on Form M13 if they expect to return at some future time. Students who discontinue their studies without such written approval may be denied readmission.

Three types of leaves are available:

1. *Leave with maintenance of status*—for students who are not registered for courses but are preparing for certifying or comprehensive or language examinations or working on dissertations or thesis.
2. *Leave with maintenance of registration*—for students who are not registered for courses and are not preparing for examinations or working on dissertations or theses.
3. *Government service leave of absence*—for students entering full-time service in the armed forces or in ACTION (Peace Corps and VISTA). No charge is made for such a leave during the period of actual service.

Sympathetic consideration will be given to a request by a student returning from an official leave who wishes to continue his course of study under the requirements in force at the time he was granted the leave.

Except for the purpose of government service, leaves will normally be granted for a maximum of two semesters.

Students must file for leaves of absence by the end of the late registration period of the semester for which the leave is desired. A student who neither registers nor secures an official leave of absence for any semester will be considered as having withdrawn from the School. Such a student who wishes to resume his studies will be required to apply for readmission.

The schedule of fees appears on page 34.

Honorable Dismissal

A student who is withdrawing from the University and does not expect to return at some future date should fill out Form M15 to request an honorable dismissal. (A student who plans to return at some future date should not fill out this form but should instead file a "Request for Leave of Absence," Form M13.) Completion of this form insures that the student's record will bear the notation that an honorable dismissal was granted. The term "honorable dismissal" refers only to character and does not attest to the quality of work done.

Records and Transcripts

A transcript is not issued for a student without his written request, except to another school or to a government agency. In these cases, transcripts are issued upon the request of the school or agency. A transcript is not sent to an employer or prospective employer without the student's permission.

Records of students are sent only in the form of a transcript. No partial records are sent or ones listing only courses without grades.

A transcript will not be issued for a student who has an overdue debt to the University or has failed to return all books to the Libraries.

A student who wishes to change either his first or last name on School records must file Form M25 in the Office of the Registrar.

Students who believe that there is an error in their academic record (e.g., in a grade, average, credit value, or course description) must promptly call this to the attention of the Office of the Registrar. Even if there has been a mistake on the part of the University, no request for a correction will be entertained unless the student notifies the Office of the Registrar within three months.

Diplomas

Duplicate or revised diplomas can be secured under certain circumstances determined by the standards accepted by American universities. Full information is given on Form G15, available in the Office of the Registrar.

Change of Address

Students who change their home or local residences are required to notify the Office of the Registrar of the change of address within 10 days on Form M29. A student is responsible for all mail sent to his old address if he has not so notified the University.

Prerequisites

It is the responsibility of the student to insure that he has met the prerequisites for each course for which he registers. Fieldwork, observation and practice teaching, internship, and practicum courses may require advance registration and are open only to registrants who meet prerequisites and are registered in the appropriate degree program.

Permission to register for practice teaching in elementary or secondary schools, or for practicums in guidance, psychology, or special education, must be secured from the chairman of the department concerned prior to registration.

Directed Study

Directed study in the form of individual tutorial guidance is available under exceptional circumstances to (a) advanced students who have been certified for doctoral study and who are in need of a course not currently being offered at the School and to (b) students who are unable to attend the University in person. Approval for directed study is granted on an individual basis and generally a student may take only one course in this manner. Such courses are not considered courses in residence and may not be used to meet the minimum resi-

dence credit requirements of the University. They are considered as transfer credits and are included within the limitations listed in this Catalog as to the number of credits which may be transferred. The student must apply for directed study on Form P20G, available in the Office of the Registrar. The form requires the signature of a faculty sponsor, who must specify the requirements to be met, and it must also be approved by the department chairman and the Dean.

Transfer of Credit

A. POLICIES

1. Credit for work completed at another institution of higher education is not automatically granted; both the department chairman and the Office of the Registrar must approve its appropriateness to the degree sought at Ferkauf Graduate School.
2. No credit is given for any course transferred from another institution with a grade below B, nor for any subject which is technical or commercial, or in any way not ordinarily classified as a liberal arts or professional education subject. (Although no credits for C courses may be transferred toward a degree, courses in which C grades were earned may, at the discretion of the department chairman, be used for waiving prerequisites or for meeting content requirements.)
3. All evaluations of work done elsewhere are tentative and subject to re-evaluation on the basis of the student's work at Yeshiva University. Transfer credits may be revoked, either in whole or in part, if subsequent work, either generally or in a particular subject, is not satisfactory.
4. The maximum number of credits which may be transferred from other institutions is as follows:

DEGREE	CREDIT REQUIREMENTS	TRANSFERABLE
Master's	33-34	9
	35-37	10

DEGREE	CREDIT REQUIREMENTS	TRANSFERABLE
Specialist's Certificate	60-63	All applicable credits, provided that at least 30 credits[1] are taken at Yeshiva University (39 if the student has no previous master's degree).
Doctoral	72-96	All applicable credits to a maximum of 42, provided that at least 30 credits[1] are taken at Yeshiva University (54 if the student has no previous masters' degree).

5. No credit is allowed for courses completed more than 10 years before the date of application for advanced standing whether or not the credit was earned toward a formal degree. If, however, a master's degree is accepted as a total unit, the date the degree was earned will be the one from which the 10-year limit is counted.
6. All transfer of credit forms are to be filed and approved prior to, or during, the first semester of study at Ferkauf Graduate School.
7. All official actions concerning transfer of credit are taken by the Office of the Registrar after all records are reviewed and subsequent to written approval by the department chairman.
8. Students already in attendance may take courses at other institutions only after they have received written permission through the Office of the Registrar. Requests for such permission are to be made on Form P9. Such credits, too, are considered transfer credits and are subject to all the above regulations.

B. PROCEDURES

1. During conversations with a student, whether prior to or following admission to Ferkauf Graduate School, no

[1] Excluding research and reading credits.

commitments can be made concerning transfer of credit.

2. No later than the second month of sessions, the student should submit to the department chairman *three* typewritten copies of Form T19.5, *Application for Transfer of Credit Toward a Graduate Degree.* On this form the student should list all the courses taken at the graduate level which he believes would be applicable to the degree program for which he is applying, so that the department chairman may choose those courses, within the numerical limits, which he deems most applicable.
3. Each applicant must have *two* official transcripts of all previous undergraduates and graduate work sent to the Office of Admissions. For each transcript of graduate work for which transfer credit is desired, the student must supply a marked copy of that school's catalog indicating the courses taken. (If the courses are no longer listed in the current catalog, an older catalog showing the courses must be sceured; if one is unavailable a description of the courses, signed by the registrar or department chairman of the institution attended, may be substituted if sent directly to the Office of Admissions.)
4. Upon receipt of the transfer request forms, transcripts, and catalog, the student's request will be acted upon. He will be notified in writing by the Office of the Registrar when a decision has been reached.

Transfer From One Department to Another

A student who wishes to transfer his studies from one department to another department must file a request for permission to do so with the Office of Admissions on Form M37.

Graduation

Commencement exercises are held each June at the close of the academic year. Diplomas are issued thereafter.

However, degrees may be awarded at the close of the summer, fall, and spring terms. A student applies for a degree by filing a Graduation Kit during the registration period of the term during which he expects to complete all requirements for the degree. Final dates for filing are listed in the Academic Calendar.

Should the degree not be awarded during that term, a Graduation Kit must be refiled *every term* until the degree is awarded. Graduation fees paid initially remain valid for an additional three consecutive terms and need not be paid again unless more than two years elapse between payment and award of degree.

Continuation of Studies After Receipt of a Degree

The status of Regular student terminates upon receipt of any degree from the School. A student who wishes to continue his studies for another degree must file for permission to do so. No new application fee is required unless there is a lapse of one or more semesters before the continuation of studies or unless the student wishes to enter a different school of the University. Some departments or schools of the University may require students seeking a doctoral degree to file Graduate Record Examination scores, or other documents, before acting on the new application.

If the student wishes to study in a department other than the one in which he received his previous degree, he must have sent to the Office of Admissions one additional transcript from each academic institution—graduate and undergraduate—which he has attended.

A student originally admitted to a doctoral program need not fill out a new application upon receipt of a master's degree. He must, however, file a written statement of his intention to continue study toward a doctoral degree both with the Office of Admissions and with his department. An allocation chart must also be filed with the Office of the Registrar listing the requirements for the new course of study (see *Allocation Charts*, page 21).

Undergraduate Students of Yeshiva College and Stern College for Women

Qualified seniors are permitted to take graduate courses at Ferkauf Graduate School for undergraduate credit.

An undergraduate student who wishes to register for a graduate course must first secure the written permission of his Dean and the Office of the Dean of Ferkauf Graduate School on Form *P3.1 available in the Office of the Registrar.

Under exceptional circumstances seniors may take graduate courses for graduate credit. Students interested in doing so should first consult Form P3.4, available in the Office of the Registrar.

Graduate Students From Other Graduate Schools of Yeshiva University

A student in a degree program in another graduate school of Yeshiva University may take courses at Ferkauf Graduate School with the permission of the Dean of his home school and the Dean of Ferkauf Graduate School. A form on which to apply for such permission is available in the Office of the Registrar.

Student Responsibility

It is the responsibility of each student to ensure that he has observed all regulations, paid all fees, and met all course requirements, including prerequisites whenever such are required. The degree candidate should note that completion of the specified number of credits does not in itself satisfy degree requirements: he is responsible for meeting departmental regulations; examination requirements; prerequisites for courses, practicums, internships, etc.

Academic Discipline

The admission of a student, his continuance upon the rolls of the School, the receipt by him of academic credits, his graduation, and the conferring of any degree, diploma,

or certificate upon him is entirely subject to the disciplinary powers of the School and to the student's maintaining high standards of ethical and scholarly conduct. The School is free to dismiss him at any time for infringement of these standards.

Student Information

False or misleading statements on admission, registration, scholarship application, or other School blanks, forms, or records dealing with outside employment, attendance at other institutions, financial status, departmental or degree requirements, or any other items of student information requested by the School may result in disciplinary dismissal.

Student Assignments

A student's signature on any examination, course assignment, or degree requirement is assumed by the School to guarantee that the thoughts and expressions therein not expressly credited to another are literally the student's own. Evidence to the contrary, verified by the Office of the Dean, may result in failure in the course, disciplinary dismissal, or such other penalties as are deemed proper.

Ethical and Professional Standards in Graduate Study

Graduate study requires excellence of character as much as excellence of intellect. A graduate student is expected to show seriousness of intellectual dedication, respect for the views and convictions of others, concern for the impact of advanced knowledge upon society at large, regard for his instructor, fellow students, and the School as a whole and, above all, adherence to the highest ethical and moral standards in his personal and professional life. During recent years national and local psychological associations have adopted statements concerning ethical and professional standards in psychological practice. A number of states, including New York, have restricted the title "Psychologist" and/or the rendering of psychological services to the public to those duly qualified by

training, examination, and/or certification. Every student is urged to examine his own activities in the light of these standards and in the light of legal requirements.

Maintenance of good standing while a student at the School is, in part, dependent upon developing and maintaining standards of ethical and professional conduct.

Messages

The School cannot transmit personal telephone messages to students except in dire emergency. Students should instruct their friends and family not to telephone them at the School.

Injuries

All injuries and accidents to students while engaged in classroom work will be reported by the faculty member in charge of the course. Students are required to report immediately to the Office of the Dean any other injury suffered on School premises.

Posters and Notices

All posters and notices must be countersigned by the appropriate administrative officer of the School before they are displayed. Students should regularly examine departmental and other administrative bulletin boards for official notices.

Use of the University's Name

No student or student organization may use the name of the University or of Ferkauf Graduate School in print for any purpose, including identification, without written permission from the Office of the Dean.

Programs and Degree Requirements

Students may work toward certification and the degrees of Master of Science, Master of Arts, Specialist's Certificate, Doctor of Education, and Doctor of Philohophy.

The School's departments and programs are:

COMMUNICATION (page 65)
DEPARTMENT OF CURRICULUM AND INSTRUCTION (page 41)

Elementary Teaching (M.S.)
Secondary Teaching of English (M.S.)
School Administration (Ed.D.)
Reading Specialist (Ed.D.)
Administration-College Teaching (Ph.D.)

DEPARTMENT OF EDUCATIONAL PSYCHOLOGY AND GUIDANCE (page 69)

Educational Psychology (M.S., Ph.D.)
Child Development and Learning (M.S.)
School Psychology (Specialist's Certificate, Ph.D.)
Language and Behavior (Ph.D.)
  Psycholinguistics
  Sociolinguistics

DEPARTMENT OF JEWISH EDUCATION (page 53)

Elementary and Secondary (M.S.)
Administration and Supervision (Ed.D.)

DEPARTMENT OF PSYCHOLOGY (page 83) (Ph.D.)

Clinical
Experimental
Social

SOCIAL SCIENCES (page 95)

DEPARTMENT OF SPECIAL EDUCATION (page 89) (M.S., Specialist's Certificate, Ed.D., Ph.D.)

Mental Retardation
Emotional Disturbance
Learning Disabilities

Degree requirements common to all programs are listed below in abbreviated form. For further details see the pages listed above. See also *Student Programs* and *Allocation Charts*, pages 20 and 21.

MASTER OF SCIENCE AND MASTER OF ARTS

1. 33-37 credits beyond the bachelor's degree are required.
2. Candidates must complete all requirements within five years after admission.
3. Candidates must complete a program of courses, readings, and field experiences approved by the department chairman.
4. Departments may require other evidences of mastery of the subject matter and skills pertaining to a master's degree in a particular area of specialization.

SPECIALIST'S CERTIFICATE

The Specialist's Certificate may be earned at an intermediate point between the master's and doctoral degrees or as a terminal degree. The certificate, which attests to the student's professional competence in a specified area of educational service, is awarded upon the completion of 60-63 credits and demonstration of functional competence in professional experience. Departments may establish requirements in excess of this minimum. Students must complete all requirements within seven years after admission.

DOCTOR OF EDUCATION AND DOCTOR OF PHILOSOPHY

Ferkauf Graduate School offers programs leading to the degrees of Doctor of Education and Doctor of Philosophy in several areas of education, psychology, and related disciplines.

The Doctor of Education degree is granted to the qualified student who demonstrates competence in dealing constructively with a problem related to the history, theory, or practice of education. The program includes the preparation of a dissertation representing a significant

contribution to knowledge in the student's field of special interest.

The Doctor of Philosophy degree is granted in recognition of mastery of knowledge in a selected field. The program includes the preparation of a dissertation which is an intensive research study primarily concerned with an original contribution to that field, reflecting the student's mastery of research design, procedures, and data analysis.

Accordingly capacity for a high order of independent thought and study is requisite for the undertaking of any doctoral program.

The minimum credit requirement for the Ph.D. is 72 credits and for the Ed.D. 94 credits, beyond the bachelor's degree, including doctoral seminars. However, each department may establish credit requirements for the degrees it offers which exceed this minimum. In addition, each department has detailed special requirements for its doctoral programs. It is the student's responsibility to ascertain these requirements.

Policies and Procedures

Policies and procedures governing doctoral programs are administered by the Office of the Dean. In brief, the steps in the doctoral program are as follows:

1. Admission to the School through a department in the first step toward becoming a certified student in a doctoral program.
2. The term *certified student in a doctoral program* signifies that the student has mastered the basic courses required by the department before he is allowed to take advanced-level courses in a major field of study. The student gains this status by successfully passing a departmental certifying examination and/or evaluation and obtaining departmental approval. He then proceeds toward the status of doctoral candidate.

3. The status of *doctoral candidate* indicates that the student has not only shown proficiency in his major area of study and in the necessary research techniques, statistics, and/or foreign languages, but has also given evidence of his ability to conceive and design a research study. This status is granted after completion of course requirements, a doctoral comprehensive examination, and the doctoral seminar requirements, including final acceptance of a dissertation outline by a committee of the faculty. (All coursework and examinations must be completed before admission to the doctoral seminar.)
4. Doctoral degree requirements are completed with the production of a written dissertation, its defense at an oral examination, final approval by the department, approbation of the faculty, and clearance by the appropriate administrative officers of the University.

The detailed policies and procedures are as follows:

I. ADMISSION

An applicant who applies for admission to a doctoral program must have his qualifications reviewed in accordance with the following criteria, which are in excess of the minimal admissions standards:

A. He must show evidence of potential for graduate work. The student's undergraduate and graduate records are carefully evaluated.

B. He must take the Graduate Record Examinations—the Aptitude test, and the Advanced test appropriate to the field in which he will study. Departments may require additional standardized tests of applicants.

C. He must present two references from former instructors. Applicants employed in education or related professional work may also present several references from former or current supervisors.

D. He must be interviewed by members of the department which he intends to enter, and he must be recommended for admission by the chairman of that department.

II. DOCTORAL CERTIFICATION PROCEDURES

The procedures for certification vary slightly from department to department and the student should consult with his adviser, but generally the requirements are as follows:

A. A minimum of 30 credits of graduate work in the appropriate major field must be completed before a student may be considered for certification.

B. A student admitted with only a bachelor's degree and no advanced standing is required to complete a minimum of 30 credits in the core requirements of his department with at least a 3.0 average applying for doctoral certification, which is granted on the basis of a departmental certifying examination and/or evaluation. He must take the test or be evaluated no later than the semester in which he completes 45 credits at the School.

C. A student admitted with advanced standing must apply for and take the examination and/or be evaluated no later than the semester in which 45 graduate credits, including transfer credits, are completed, provided that at least 12 credits have been previously completed at the School.

D. No student may continue to enroll in a doctoral program if he fails to stand for certification as required above. Failure to do this at the specified time leads to suspension of his status as a Regular student in a doctoral program. Under special circumstances the department may recommend that he be allowed to take a limited number of additional courses to prepare for certification. The Office of the Registrar will notify the student in writing as to whether or not he has attained certification status.

III. DOCTORAL CANDIDACY

A certified doctoral student continues in that status until he has completed the following steps toward candicay:

A. He must complete remaining coursework as approved by the department on his allocation chart.

B. He must pass a doctoral comprehensive examination at the School.

C. He is required, if he is pursuing a Ph.D. degree, to pass an examination in two foreign languages. Examinations may be taken in French, German, or Russian. Another language may be substituted, providing the student justifies the existence of a scholarly literature in that language pertinent to his area of research interest. Such substitution requests must be made to the department chairman in writing, prior to the filing of the application for the examination with the Office of the Registrar. Approval of the Dean is required.

   A student who has completed a year of statistics including PS 404 Statistics II, or its equivalent, with a grade of B– or better, or who passes the final examination in PS 404 at the School, may be excused from one language examination.

   The required foreign language examinations are those of the Graduate School Foreign Language Testing Program of the Educational Testing Service. The minimum passing score is the 40th percentile in that examination.

D. He must register for the required doctoral seminars and complete an outline for a proposed dissertation to be approved by a doctoral committee. An approved outline is then submitted to the Office of the Registrar as an indication of successful completion of the doctoral seminar requirements.

   When the outline has been filed, the Office of the Registrar, after review of the record, will notify the student in writing that he has achieved candidacy. A doctoral candidacy fee of $350 becomes due and payable at this time.

E. When a student has completed all course requirements and is working on his dissertation under the supervision of a sponsoring committee, he must formally apply for a Leave of Absence With Maintenance of Status during each regular semester until the degree is awarded. Payment of maintenance of status fee entitles the candidate to use of the University's library and research facilities and to the consultative services of appropriate faculty advisers and readers. Failure to maintain status for any semester will signify that the student has withdrawn from the School, and a student wishing to resume his studies is required to apply for readmission.

IV. COMPLETION OF DOCTORAL REQUIREMENTS

The student must present a dissertation and defend it at an oral examination. (Application for Oral Defense Examination, Form D24, and all other doctoral forms are available in the Office of the Registrar. The student should ascertain from his department what is the last day to file for the oral defense examination.) Oral defense of dissertation includes an examination of the student's ability to converse intelligently and with authority in his major field. After passing the oral defense examination the student submits his dissertation, with whatever revisions are required, to the Office of the Registrar for final approval. Information concerning the assignment of a sponsoring committee, reader-examiners, oral defense of dissertation, and instructions for preparing copies and abstracts can be obtained from the Office of the Registrar.

V. TIME LIMITATIONS

A. Period of Study Toward Doctoral Degrees

   A student admitted with a master's degree in a field relevant to his doctoral study must complete his de-

gree requirements within eight years of acceptance into a degree program. A student admitted with a bachelor's degree must complete his degree requirements within 10 years of acceptance into a degree program. Waivers will be granted only under unusual circumstances, by the Dean, upon recommendation by the department.

The student must complete all remaining requirements within five years of the date of his becoming a certified student.

The shorter time limitation of those specified above is the one in effect.

B. Transfer of Credit

A student seeking advanced credit toward a doctoral degree for graduate work taken at other accredited institutions should consult the section *Transfer of Credit*, page 25.

STATE AND CITY CERTIFICATION REQUIREMENTS

Requirements for teaching, guidance, psychology, and other educational and professional certificates vary considerably from state to state and from locality to locality. The completion of the requirements for a degree at Ferkauf Graduate School does not automatically qualify a student for teaching or other certification in New York State or any other locality. Individual state and city requirements should be taken into consideration by the student in planning his program. The responsibility for meeting certification requirements rests with the student; however, he may request guidance from the faculty of his department.

STUDENT FINANCES

TUITION AND FEES

Application for Admission (not refundable)	$10.00
University Registration Fee (payable at each registration)	
0-6 credits	15.00
7 credits and over	25.00
Student Activities Fee (payable at each registration)	5.00
Tuition (payable each semester); all courses, per credit	65.00
Late Registration Fee	10.00
Change of Program Fee (covers all changes made at one time)	10.00
Examinations [1]	
a. Language Examination	20.00
b. Certifying Examination	20.00
c. Comprehensive Examination	20.00
d. Makeup Examination administered by the departmental office	5.00
Maintenance of Registration	
Per semester	20.00
Per year	35.00
Maintenance of Status, per semester	75.00
Doctoral Candidacy Fee (payable upon official notification of candidacy)	350.00
Graduation Fee [1]	25.00
Transcripts of Record, each, regular service	2.00
rush service	5.00
Materials Fee (where required for particular courses)	10.00

[1] Students filing for an examination who do not take the examination in the semester in which the fee was paid are permitted (with departmental approval and permission of the Office of the Registrar) a maximum of four semesters (including the semester in which the payment is made) to take the examination without payment of an additional fee. These students will, however, be responsible for any changes in the University charge for these examinations during the two-year period. The fee will be forfeited at the end of the four-semester period if the examination is not taken.

[1] See Graduation, page 27.

University regulations require the payment in full of all tuition and fees in order to complete registration. Make checks or money orders payable to Yeshiva University. All payments must be made directly to the Office of Student Finances; no one else is authorized by the University to accept payments. All outstanding accounts for previous academic work in any division of the University must be cleared before registration for additional credits can be approved. Students will therefore not be permitted to register until all outstanding balances have been paid.

Several courses offered by the School are subject to a materials fee which is payable at the time of registration. A list of these courses is posted during the registration period.

WITHDRAWAL

The last day to withdraw from a course without academic penalty, but with payment of the change of program fee, is listed in the Academic Calendar. Students wishing to withdraw from the School or a course must file the appropriate form with the Office of the Registrar. Students who withdraw without receiving written permission from this office receive a grade of G, equivalent to failure, in those courses from which they have absented themselves. Such students are not eligible for a refund. Students who withdraw by the specified date are eligible for a refund of 75% of the course tuition paid; registration and other fees are, however, not refundable. Students who withdraw after the specified date are not eligible for a refund and are responsible for the full tuition for the entire semester.

To receive a refund the student must submit a written request to the Office of Student Finances. The official date of withdrawal is the day the Office of the Registrar grants permission to withdraw.

FINANCIAL AID

For further information on any program listed below, contact the agency indicated or the Office of Student Finances.

Joseph and Sadie Danciger Scholarship and Fellowship Fund

Trustees of the Sadie Danciger Estate of Kansas City, Mo., have established a fund of $250,000 to provide scholarship and fellowship aid to deserving students in the various graduate schools of Yeshiva University.

Bernard Reswick Memorial Fellowship

The Franklin Foundation, Inc., established in memory of the late Bernard Reswick, has provided a fellowship of $4,500 for the support of one year of study for a Negro or Puerto Rican student preparing to teach disadvantaged children in urban elementary schools.

University Fellowships

Full-time students with outstanding undergraduate and/or graduate records are eligible to compete for University fellowships for academic work leading to a doctoral degree. These fellowships are granted for the entire academic year and may or may not require services to particular departments. The basis for an award is departmental recommendation and approval by the Office of the Dean and Office of Student Finances. Recipients are required to register and pay all tuition and fees at that time. They may, in addition, apply for a New York State Scholar Incentive Award or a National Defense or State Student Loan, but may not apply for other financial assistance from University funds. Stipends vary in size, with most ranging from $1,800 to $2,400 per year.

National Science Foundation Graduate Traineeship Program

Traineeships are available in the areas of psychology and language and behavior. Stipends are awarded for a 9- to 12-month tenure for up to 3 years. The stipend for the 12-month term is $2,400 for the first year, $2,600 for the second, and $2,800 for the third. In addition a $500 dependency allowance may be provided.

University Tuition Scholarships

A number of University scholarships are available to assist promising and deserving students. Awards are made on the basis of demonstrated ability, financial need, and professional promise. Although awards are made for one semester, applications for renewal may be submitted.

The applicant normally must have completed a minimum of 9 credits at Ferkauf Graduate School before he is eligible for a University scholarship. In rare cases, where the student presents a superior record, the Dean may request that the prior attendance requirement be waived. The student must, in addition, enroll for a minimum of 12 credits during the semester for which a scholarship is requested. Scholarships are allocated in the form of tuition credits. Six tuition credits is the maximum allocation per student, per semester; and the allocation cannot exceed one-half the tuition charge. Scholarships do not cover application, registration, or other University fees.

Scholarship applications are to be submitted to the Office of Student Finances at least six weeks prior to the first day of registration for any given semester.

Fellowship for the Preparation of Professional Personnel in the Education of Handicapped Children (Under Public Law 91-230)

Fellowships are awarded under this law for the preparation of teachers, research specialists, and university faculty specializing in mental retardation, emotional disturbance, and learning disabilities. Stipends cover tuition, fees, and dependency allowance.

Public Health Service Traineeships and Other N.I.M.H. Clinical Training Stipends

Stipends are available for support of full-time students preparing for doctoral degrees in clinical psychology. The stipends are awarded directly through the University through funds appropriated by the National Institute of Mental Health. Awards vary in amount, ranging $1,800-$3,000. In addition, recipients receive full remission of tuition and fees for the duration of the period covered by the award. Trainees with exceptional academic records may renew the stipend.

National Defense Student Loan Program

The National Defense Student Loan Program was authorized by the National Defense Education Act of 1958 Title II, and amended by the Higher Education Act of 1965. The principal aim of this law is "to insure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States," It provides for the establishment of loan funds from which needy undergraduate and graduate students may borrow on reasonable terms for the purpose of completing their higher education.

College Work-Study Program

The College Work-Study Program was authorized by the Economic Opportunity Act of 1964 and amended by the Higher Education Act of 1965. This legislation initiated the program to stimulate and promote part-time employment of students in institutions of higher education who are in need of the earnings from such employment to pursue courses of study at such institutions.

The College Work-Study Program provides academically qualified full-time students with a source of financial assistance which can be combined, as far as is feasible,

with a loan, fellowship, or grant-in-aid, to the extent necessary to enable them to meet educational expenses.

A wide variety of job opportunities are available on- and off-campus. These include, but are not limited to, faculty aide, laboratory assistant, statistician, research assistant, and office and clerical worker. The program provides for part-time employment during the school year and full-time employment during the summer.

Participants are generally paid on an hourly basis in accordance with their ability, experience, and the work being performed.

New York State Scholar Incentive Award Program

New York State residents attending the School on a *full-time* basis are eligible for Scholar Incentive Awards if they maintain satisfactory academic standing. A full-time student is defined as a student who is registered for a minimum of 12 credits per semester or their equivalent. The stipend varies, depending on family income and tuition, from $100 to $300 per semester. However, the award cannot exceed the amount by which tuition for the semester (not including fees) exceeds $100. Holders of Regents Scholarships or Fellowships may also receive a Scholar Incentive Award, but it cannot be more than the amount by which tuition for the semester exceeds the scholarship or fellowship.

Applications should be filed with the State before July 1 for each academic year but will be accepted up to December 1. Applications for only the Spring Semester have an April 1 deadline. *Annual* application is required. For further information and application contact the Regents Examination and Scholarship Center, State Education Department, 800 North Pearl Street, Albany, N.Y. 12224.

State-Guaranteed Loans

NEW YORK STATE HIGHER EDUCATION ASSISTANCE CORPORATION

The Higher Education Assistance Corporation was established by New York State to assist qualified students to meet financial need during their years of undergraduate or graduate study. The program makes possible low cost commercial bank loans with very liberal repayment terms similar to those of the National Defense Student Loan Program. New York State residents attending the School are eligible for these loans. Students interested in this program should contact the New York State Higher Education Assistance Corporation, 50 Wolf Road, Albany, N.Y. 12205, for applications and further information.

NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY

A loan program somewhat similar to that of New York State is available to residents of the State of New Jersey. For information and applications, residents of New Jersey should contact the Scholarship and Loan Program, State of New Jersey, Department of Education, 175 West State Street, Trenton, N.J. 08625.

Students interested in state-guaranteed loans in other states should contact their state education department.

Tuition-free Courses for Cooperating Master Teachers

Each teacher who supervises the student-teaching or teaching-internship of a Ferkauf Graduate School student for one semester is eligible for one tuition-free course at the School. Eligible teachers will be notified by the Office of the Registrar. They are eligible for one course in any session beginning within one year after the conclusion of the supervisory semester. Eligible persons are classified as Transient students.

ED COURSES IN CURRICULUM AND INSTRUCTION

The Department of Curriculum and Instruction offers professional education for teaching, supervisory, administrative, and research personnel on the elementary, secondary, and college levels. A major emphasis of the department is the development of personnel, programs, and research designed to improve the education of children from backgrounds of poverty and discrimination.

Programs lead to the Master of Science degree and New York State certification for teachers in elementary school and teachers of English in secondary school;[1] and to the degrees of Doctor of Education in school administration, Doctor of Philosophy in administration-college teaching, and Doctor of Education in reading.

Courses, seminars, and practicums offered by the Department of Curriculum and Instruction are supplemented by courses in the behavioral sciences offered by the Department of Educational Psychology and Guidance, Department of Psychology, and Department of Special Education. Classroom observation, student teaching, internship, and related field experiences are conducted in schools and neighborhoods in New York City and nearby communities.

Selected courses offered by the department are made available, through special arrangements, to advanced students at Stern College for Women.

MASTER OF SCIENCE

Two general types of programs are offered:

a) Pre-Service Programs: For prospective teachers of grades N-6 and N-9, and of English in grades 7-12. New York State certification is available in these areas.

[1] Programs for teachers of mathematics and physics in secondary school are offered at the University's Belfer Graduate School of Science.

b) Qualified-Teacher Programs: For students whose previous education and experience qualify them for provisional or other teaching certificates.

Program I: Pre-Service Teacher, Grades N-6 or N-9

ADMISSION REQUIREMENTS

A. Bachelor's degree from an accredited college.

B. Graduate Record Examinations (Aptitude Test).

C. For elementary and early secondary grades (N-9): an undergraduate major in English or social science.

DEGREE REQUIREMENTS

A minimum of 36 credits, including 3 credits for field experience, and a comprehensive examination, master's thesis, or other final project.

COURSE REQUIREMENTS

A. Professional courses in education (including 6 credits in reading)	18 credits
B. Courses in the behavioral sciences	6 credits
C. Field experience and related seminar, to include a minimum of 300 clock-hours in observation, participation, and student teaching at the appropriate grade level	6 credits
D. Courses in the humanities, social sciences, or behavioral sciences	6 credits
E. Demonstrated competence in the teaching of reading, on the basis of criteria established by the department.	

All courses are selected under the guidance of a departmental adviser.

Program II: Qualified Teacher, Grades N-6 or N-9

ADMISSION REQUIREMENTS

A. Bachelor's degree from an accredited college.

B. Graduate Record Examinations (Aptitude Test).

C. For the N-9 program: an undergraduate major in English or social science.

D. Certification: an appropriate provisional or permanent teaching license.

E. Minimum of 12-15 credits in professional courses in education and college-supervised student teaching; or one or more years of paid, full-time teaching experience at the appropriate level, and a recommendation from the administrator of the employing school district.

DEGREE REQUIREMENTS

A minimum of 33-36 credits, depending on the student's previous courses, and a comprehensive examination, master's thesis, or other final project.

COURSE REQUIREMENTS

A. Advanced professional courses in education	15 credits
B. Educational philosophy and human relations education	6 credits
C. Courses in the behavioral sciences, humanities, or social sciences. (For students in the N-9 program, courses are in English or social science.)	6 credits
D. Educational research and thesis or project	3-6 credits
E. Demonstrated competence in the teaching of reading, on the basis of criteria established by the department.	

All courses are selected under the guidance of a departmental adviser

Program III: Pre-Service Teacher of English, Grades 7-12

ADMISSION REQUIREMENTS

A. Bachelor's degree from an accredited college.

B. Undergraduate major in English.

C. Graduate Record Examinations (Aptitude Test and Advanced Test in Literature).

DEGREE REQUIREMENTS

A minimum of 36 credits, including 3 credits for field experience, and a comprehensive examination, master's thesis, or other final project.

COURSE REQUIREMENTS

A. Professional courses in education	6-9 credits
B. Courses in English language and literature	9-12 credits
C. Courses in the behavioral sciences	6 credits
D. Field experience and related seminar	6 credits
E. Educational research and thesis or project	3-6 credits
F. Demonstrated competence in the teaching of reading, on the basis of criteria established by the department.	

All courses are selected under the guidance of a departmental adviser.

Program IV: Qualified Teacher of English, Grades 7-12

ADMISSION REQUIREMENTS

A. Bachelor's degree from an accredited college.

B. Undergraduate major in English.

C. Graduate Record Examinations (Aptitude Test and Advanced Test in Literature).

D. Certification: an appropriate provisional or permanent teaching license.

E. Minimum of 12 credits in professional courses in education and college-supervised student teaching; or one or more years of paid, full-time teaching experience in English at the appropriate grade level, and a recommendation from the administrator of the employing school district.

DEGREE REQUIREMENTS

A minimum of 33-36 credits, depending on the student's previous courses, and a comprehensive examination, master's thesis, or other final project.

COURSE REQUIREMENTS

A. Advanced professional courses in education	6-12 credits
B. Educational philosophy and human relations education	6-credits
C. Courses in English lanugage and literature	9-12 credits
D. Courses in the behavioral sciences, humanities, or social sciences	6 credits
E. Educational research and thesis or project	3-6 credits

All courses are selected under the guidance of a departmental adviser.

DOCTOR OF EDUCATION

ADMISSION REQUIREMENTS

A. Teacher's credential.

B. Master's degree of at least 33 credits, with a minimum of 6 credits in the behavioral sciences and 3 credits in foundations of education.

C. At least one year of teaching experience.

D. Other general requirements of the School (see page 32).

DEGREE REQUIREMENTS

A minimum of 60 credits beyond the master's degree, an internship, one year of residence, three years of teaching experience, and a doctoral dissertation.

COURSE REQUIREMENTS

The 60-credit minimum requirement is distributed as shown below.

Approval for permanent certification as school administrator and principal may be recommended after the student has completed all coursework and passed the doctoral comprehensive examination.

Program V: School Administrator and Principal

This program has been developed on the basis of a study of conceptual and behavioral skills required of an effective administrator, and methods and theories of instruction effective in the development of administrators. A specific program is devised by the student and his departmental adviser to meet the student's particular needs, with courses distributed as follows:

A. Fundamentals of administration: 12 credits

B. Specialization in administration: 9 credits

C. Behavioral-social science: 9 credits

D. Research methods: 12 credits

E. Minor: 9-12 credits

F. Internship: 6 credits

G. If the student has not taken an advanced course in social, historical, or philosophical foundations on the master's level, he must complete one course in this area at the doctoral level.

H. Electives (up to 6 credits, to complete a total of 60 beyond the master's degree), to be selected by the student in consultation with his adviser.

Ed.D. candidates in Program V who plan to apply for the principalship in New York City are required by the New York City Board of Education to complete at least 6 credits of coursework in the area of their supervisory and administrative specialty, either elementary, junior high, or senior high school. Provision has been made with the Board of Education for such candidates to accumulate these credits in ED 509, ED 510, ED 581, ED 583, and ED 584 as follows:

ED 509	School Leadership: Problems, Practices I. (One of the 3 credits will be allocated for independent study in the specialty area.)
ED 510	School Leadership: Problems, Practices II. (One of the 3 credits will be allocated for independent study in the specialty area.)
ED 581	Internship in Administration. (Six credits in the specialty area, depending on the type of school which the candidate selects for his intern experience.)
ED 583, 584	Field Projects in School Administration I, II. (Six credits in the specialty area, depending on the type of school which the candidate selects for his field experience.)

DOCTOR OF PHILOSOPHY

This program is designed to prepare a candidate for either a university teaching and research role in the field of educational administration or a research and developmental role focusing on planned organizational change in a school system.

ADMISSION REQUIREMENTS

A. Bachelor's degree from an accredited college.

B. Average in the undergraduate record and previous graduate study above the minimum required for doctoral admission.

C. Evidence of ability to meet the requirements of PS 403 Statistics I.

D. Commitment to three consecutive years of residence. (Students who have taken graduate work may apply for advanced standing.)

DEGREE REQUIREMENTS

A minimum of 78 credits, examinations, and a doctoral dissertation.

COURSE REQUIREMENTS

The 78-credit minimum requirement is distributed as shown below.

Program VI: Administration-College Teaching

A. Foundations of education and the educational process: 18 credits

B. Behavioral-social science: 15 credits

C. Research methods: 18 credits

D. Theory of organization and administration: 9 credits

E. Problems and practices in educational administration: 12 credits

F. Internship: 6 credits

DOCTOR OF EDUCATION

Program VII: Reading Specialist

This program is designed to prepare reading specialists who can perform quality research in both the basic psychology of reading and reading pedagogy (curriculum research) and who, as university personnel or supervisors, can train teachers of reading. In addition, graduates of the program will be trained as diagnosticians and therapists in the area of reading disabilities. The program focuses on three areas: reading, linguistics, psychology and research.

ADMISSION REQUIREMENTS

A. At least provisional certification at the elementary or secondary level.

B. Other general requirements of the School (see page 32).

C. Master's degree or its equivalent.

DEGREE REQUIREMENTS

A minimum of 66 credits beyond the master's degree or its equivalent.

COURSE REQUIREMENTS

A. Reading and advanced curriculum: 30 credits

B. Linguistics and language and behavior: 12 credits

C. Psychology, measurement, and research: 18-21 credits

D. Doctoral seminar: 6 credits

E. Supplementary courses or substitute course from one of eight areas:

Research and statistics
Administration and group processes
Communication and linguistics
Literature
Psychology and development
Clinical remediation
Curriculum
Minority group studies

Courses offered in this department are numbered as follows:

A. Social, Philosophical, and Historical Foundations:	ED 100-ED 199
B. Elementary Curriculum, Methods, Materials, and Problems:	ED 200-ED 299

C. Secondary Curriculum, Methods, Materials, and Problems:	ED 300-ED 399
D. Integrative Seminars:	ED 400-ED 499
E. Administration and Supervision:	ED 500-ED 599
F. General Curriculum, Methods, Materials, and Problems:	ED 600-ED 699
G. Doctoral Courses and Seminars:	ED 700-ED 799

H. Communication and Linguistics
I. English and World Literature
J. Mass Media
K. Speech
L. History
M. Sociology and Anthropology

See page 52.

JE Courses in Jewish Education

The Isidore and Rose Silverstein Department of Jewish Education was named in honor of the beloved parents of Mrs. Estelle Ferkauf. It offers programs leading to the degrees of Master of Science and Doctor of Education. The Master's degree programs are intended to prepare students with adequate Hebraic background for careers in Jewish education and to improve the effectiveness of teachers in Jewish elementary and secondary schools. The programs are also designed to enable qualified men and women to prepare for increased responsibility in the field of Jewish education.

Admission to the Master of Science degree program is open to applicants who present an earned bachelor's degree. The joint Bachelor of Arts-Master of Science degree program, offered in conjunction with the University's Stern College for Women, enables selected seniors to earn up to 12 graduate credits toward the degree of Master of Science in Jewish elementary or scondary education.

Upon completion of Master's degree requirements and up to 12 additional credits in Jewish studies, students may qualify for a Teacher's Certificate from the National

Board of License of the American Association for Jewish Education, or the New York Board of License affiliated with the Board of Jewish Education. While pursuing coursework toward the degree, regular students in the department are eligible to receive teaching permits from the New York Board of License.

The Doctoral program in administration and supervision is designed to prepare students for effective leadership in Jewish education. It derives from a multibased focus on leadership in instruction, curriculum design, personnel management, social action, Jewish scholarship, and educational research. Courses fulfilling degree requirements are offered in the Departments of Curriculum and Instruction, and Educational Psychology and Guidance, as well as in the Department of Jewish Education. Upon completion of the program, students may qualify for principal certification by the National Board of License of the American Association for Jewish Education or the New York Board of License affiliated with the Board of Jewish Education.

JEWISH ELEMENTARY EDUCATION: MASTER OF SCIENCE

ADMISSION REQUIREMENTS

A bachelor's degree or equivalent; appropriate background in Jewish studies; evidence of promise as elementary school teacher.

DEGREE REQUIREMENTS

34 credits; comprehension of, and fluency in, the Hebrew language; and a comprehensive examination or research paper.

COURSE REQUIREMENTS

A. FOUNDATIONS OF JEWISH EDUCATION

6 credits selected from the following:

JE 101	History of Jewish Education (H)
JE 103	Contemporary Jewish Education
JE 104.1a (104.2a; 104.3a)	Issues in Jewish Education
JE 121	Jewish Education in Talmudic and Gaonic Times (H)
JE 151	Philosophy of Jewish Education
JE 161	Social Foundations of Jewish Education

B. METHODS AND MATERIALS OF JEWISH EDUCATION

8 credits selected from the following:

JE 201	Classroom Management in Jewish Education
JE 213.1 (JE 213.1a)	Teaching Jewish Studies I (H)
JE 213.2 (JE 213.2a)	Teaching Jewish Studies II (H)
JE 221 (JE 221a)	Principles of Guidance and Jewish Teaching
JE 227 (JE 227a)	Adult Jewish Education
JE 229a	Student Teaching in Jewish Elementary Schools (H)
JE 229.1a	Seminar in Jewish Elementary Education
JE 231 (JE 231a)	Curriculum and Materials for Jewish Education
JE 251 (JE 251a)	Curriculum Analysis in Jewish Education

C. JEWISH STUDIES; HEBREW LANGUAGE AND LITERATURE

8 credits selected from the following:

JE 304a	The Hebrew Language (Ulpan Method)—Advanced (H) or demonstration of proficiency in spoken Hebrew
JE 307a	Hebrew Grammar and Composition (H)
JE 313 (JE 313a)	Themes in Hebrew Literature (H)
JE 331	Approaches to Jewish History (H)

JE 337	History and Geography of Israel (H)
JE 351	Interpretation of Jewish History (H)
JE 361	Jewish Liturgy (H)
JE 363	The Growth of Halakhah (H)
JE 391	Selections From Later Prophets (H)
JE 392	The Poetry of the Bible (H)
JE 393	Educational Concepts in the Bible (H)
JE 394	The Wisdom Literature of the Bible (H)

D. PSYCHOLOGY

JE 181	Personality Appraisal and Jewish Education

3 credits selected from the following:

PG 110	Educational Psychology
PG 200.3	Child Development and Learning
PG 205	Social Psychology of Education

E. GENERAL EDUCATION

3 credits selected from the following:

ED 101	Social Foundations of Urban Education
ED 107	History of Educational Thought
ED 211	Teaching Language Arts, Elementary N-6
ED 212	Teaching Reading, Elementary N-6
ED 213	Teaching Mathematics, Elementary N-6
ED 214	Teaching Social Studies, Elementary N-6
ED 215	Science for Elementary Schools N-6

F. GUIDED ELECTIVE

Distribution requirements may be adjusted for students with special backgrounds and strengths.

JEWISH SECONDARY EDUCATION: MASTER OF SCIENCE

ADMISSION REQUIREMENTS

A bachelor's degree or equivalent; intensive background in Hebraica; rabbinic ordination or completion of a recognized undergraduate program in Hebrew studies, or the equivalent; fluency in Hebrew language; evidence of promise as secondary school teacher.

DEGREE REQUIREMENTS

36 credits; comprehensive examination or thesis. Students without previous teaching experience must complete JE 230a Student Teaching in Jewish Secondary Schools and JE 230.1a Seminar in Jewish Secondary Education.

COURSE REQUIREMENTS

A. FOUNDATIONS OF JEWISH EDUCATION

3 credits selected from the following:

JE 101	History of Jewish Education (H)
JE 103	Contemporary Jewish Education
JE 104.1a (104.2a; 104.3a)	Issues in Jewish Education
JE 121	Jewish Education in Talmudic and Gaonic Times (H)
JE 151	Philosophy of Jewish Education
JE 153	The Jewish Tradition and Western Education
JE 161	Social Foundations of Jewish Education

B. METHODS AND MATERIALS OF JEWISH EDUCATION

5 credits selected from the following:

JE 215 (JE 215a)	Teaching Hebraica in Jewish Secondary Schools (H)
JE 221 (JE 221a)	Principles of Guidance and Jewish Teaching

JE 230a	Student Teaching in Jewish Secondary Schools (H)
JE 230.1a	Seminar in Jewish Secondary Education
JE 271 (JE 271a)	Jewish School Management

C. JEWISH STUDIES; HEBREW LANGUAGE AND LITERATURE

JE 351	Interpretations of Jewish History (H)
JE 363	The Growth of Halakhah (H)
JE 397	The Bible in Light of Modern Archaeology

6 credits selected from the following:

JE 307a	Hebrew Grammer and Composition (H)
JE 313 (JE 313a)	Themes in Hebrew Literature (H)
JE 331	Approaches to Jewish History (H)
JE 337	History and Geography of Israel (H)
JE 361	Jewish Liturgy (H)
JE 391	Selections From Later Prophets (H)
JE 392	The Poetry of the Bible (H)
JE 393	Educational Concepts in the Bible (H)
JE 394	The Wisdom Literature of the Bible (H)
JE 396	History of Biblical Exegesis (H)

D. PSYCHOLOGY

JE 181	Personality Appraisal and Jewish Education
PG 200.4	Adolescent Development and Learning

E. METHODS AND MATERIALS OF GENERAL EDUCATION

3 credits selected from the following:

ED 101	Social Foundations of Urban Education
ED 107	History of Educational Thought
ED 300	The Secondary School Curriculum
ED 311	Teaching English, Secondary 7-12

F. GUIDED ELECTIVES

Distribution requirements may be adjusted for students with special backgrounds and strengths.

ADMINISTRATION AND SUPERVISION OF JEWISH EDUCATION: DOCTOR OF EDUCATION

ADMISSION REQUIREMENTS

A. Master's degree in humanities, social sciences, or behavioral sciences.

B. A minimum of 6 credits in education and 6 credits in behavioral sciences.

C. Advanced knowledge of Jewish studies: a bachelor's degree in Hebraic studies or equivalent; or rabbinic ordination or equivalent.

D. Fluency in Hebrew language.

E. An approved teacher's credential.

F. At least 3 years of teaching experience in an accredited school.

G. Evidence of potential for graduate work, including Graduate Record Examinations—Aptitude test.

H. Two references from former instructors and two references from former or current supervisors of professional work.

I. Recommendation by the chairman and at least one other faculty member of the Department of Jewish Education.

DEGREE REQUIREMENTS

A. A minimum of 60 credits of coursework beyond the master's degree.

B. At least one term of internship (300 hours).

C. Doctoral certifying and comprehensive examinations.

D. Doctoral seminar (included in credit requirements).

E. Doctoral dissertation.

CREDIT DISTRIBUTION

Foundations of Jewish Education	12 credits
Methods and Materials of Education	9
Educational Administration and Supervision	12
Jewish Studies	12
Research Methods	6
Electives	9
	60 credits

Distribution requirements may be adjusted for students with special backgrounds and strengths.

COURSE REQUIREMENTS

A. FOUNDATIONS OF JEWISH EDUCATION 12 credits

1. Social and Psychological Foundations

6 credits selected from the following:

JE 165	Sociology of the American Jewish Community
JE 171	Sociology of Religion
JE 182	Social and Psychological Perspectives of Jewish Youth
JE 183	Psychoanalysis and the Religious Personality
SS 521	Sociological Analysis I

2. Historical and Philosophical Foundations

6 credits selected from the following:

JE 106	Advanced Seminar in Contemporary Jewish Education
JE 122	Jewish Education in Medieval Times (H)
ED 131	Contemporary Philosophy of Education
ED 133	Existentialism and Education

B. 1) METHODS AND MATERIALS OF EDUCATION 9 credits

JE 252	Curriculum Design in Jewish Education
ED 616	New Teaching Media and Techniques

3 credits selected from the following:

JE 223	Guidance in the Jewish School: Case Studies
JE 241	Resources in Jewish Education
PG 260	Mental and Educational Measurement

B. 2) EDUCATIONAL ADMINISTRATION AND SUPERVISION 12 credits

ED 504	Laboratory in Group Development
ED 506	Theories of Organization
ED 509	School Leadership: Problems, Practices I
JE 281.2	Seminar in Supervision of Jewish Day and Supplementary Schools
JE 293a	Internship in Jewish Education I (or JE 294)

C. JEWISH STUDIES 12 credits

JE 338	Seminar in Contemporary Israel
JE 373	Trends in Modern Jewish Thought (H)

6 credits selected from the following:

JE 321	Seminar in Modern Hebrew Literature (H)
JE 342	Seminar in American Jewish History
JE 343	Problems in Modern Jewish History
JE 363	The Growth of Halakhah (H)
JE 367	Ethical Movements in Judaism (H)
JE 396	History of Biblical Exegesis (H)
JE 397	The Bible in Light of Modern Archaeology

D. RESEARCH METHODS 6 credits

JE 407	Doctoral Seminar in Jewish Education

Two of the following courses:

JE 403	Statistics I
JE 404	Statistics II
JE 405	Seminar in Judaica (H)
JE 406	Research in Jewish Education (H)

E. ELECTIVES 9 credits

Courses selected, with departmental approval, from any of the above courses and from the following:

ED 505	Leadership and Supervision
ED 510	School Leadership: Problems, Practices II
ED 583	Field Projects in School Administration I

Courses offered in this department are numbered as follows:

A. Foundations of Jewish Education:

Historical Foundations	JE 101-JE 129
Philosophical Foundations	JE 131-JE 159
Social Foundations	JE 161-JE 179
Psychological Foundations	JE 181-JE 199

B. Methods and Materials of Jewish Education:

Instruction and Guidance	JE 201-JE 229
Curriculum	JE 231-JE 259
Administration and Supervision	JE 261-JE 299

C. Jewish Studies; Hebrew Language and Literature:

Hebrew Language	JE 301-JE 309
Hebrew Literature	JE 311-JE 329
Jewish History	JE 331-JE 359
Jewish Thought and Practice	JE 361-JE 389
Biblical Literature	JE 391-JE 399

D. Research in Jewish Education: JE 401-JE 499

(H) following a course title indicates that the course is taught in Hebrew.

PS Courses in Psychology

The Department of Psychology offers programs in clinical psychology (accredited by the American Psychological Association), experimental psychology, and social psychology, leading to the Doctor of Philosophy degree. These programs are registered by the New York State Education Department for admission of their graduates to the examination for certification as psychologist.

Programs stress 1) a theoretical outlook emphasizing basic cognitive processes and 2) integration of subject matter and methodology, with a view toward developing

a critical scientific attitude concerning research on fundamental problems. Applicants may apply to be evaluated as candidates for the degree of Doctor of Philosophy in any one of the three programs below, or as Master of Arts degree candidates in experimental or social psychology. Doctoral students in those two programs may require their Master's degree during the course of their studies, as described on page 84. Admission to departmental courses is generally limited to students enrolled in this department. However, qualified students from other departments may enroll in various courses with the permission of the instructor. Applicants are advised to acquaint themselves with the departmental bulletin which covers in detail requirements for admission, credits, degrees, and the recommended courses for each program.

DOCTOR OF PHILOSOPHY

DEGREE REQUIREMENTS

72-76 credits, depending on the program (see below). Other requirements are: completion of doctoral certification, predoctoral research, passing of two foreign language examinations or one foreign language and PS 404, passing of the doctoral comprehensive examination, submission of an approved doctoral dissertation. A year of internship is required of students in clinical psychology.

CLINICAL PSYCHOLOGY PROGRAM

76 credits

The clinical psychology program focuses on the knowledge and techniques of the diagnostician and therapist within the broader framework of developing a critical scientific attitude toward cognitive organization. In the first year the student is introduced to concrete, clinically relevant material by which he is sensitized to the importance of detailed observations in the various settings of psychological testing, interviewing, and psychotherapy. Through

a broad range of courses (including personality, child development, memory and thinking, and social) selected with adviser consultation, a variety of conceptual content provides the basis for the student's initial judgment regarding a predoctoral thesis problem. This research may serve as a pilot for later dissertation work. During each of the three years prior to internship, content courses are selected along with practicum experience and supervision in both psychological appraisal and intensive psychotherapy. Also during this time, initial steps are made to develop a dissertation problem which may be worked on during the internship year.

A crisis intervention program, initiated during the 1970-71 year, includes a curriculum in suicidology, research efforts, and an emergency clinic.

To facilitate admission to the clinical psychology program, applications must be completed and filed with the Admissions Office by February 1. A completed application includes all transcripts of undergraduate and graduate studies, Graduate Record Examinations scores, and two letters of recommendation.

EXPERIMENTAL PSYCHOLOGY PROGRAM

72 credits

The experimental psychology program is designed to prepare teachers and researchers. Students entering the program are advised to begin research as soon as possible, and are expected to acquire general competence in a range of areas within experimental psychology and special expertise in one. Areas include physiological and comparative, learning and performance, perception and psychophysics, attention, memory, and language. Normally students acquire some basic competence in these through courses and seminars, but there is no rigid set of courses required for all. Rather, each student's schedule is allowed to reflect his individual background and interests.

SOCIAL PSYCHOLOGY PROGRAM

72 credits

The social psychology program offers courses in the theories and methodologies which provide a foundation for teaching and research. Students are expected to acquire general competence in a range of areas in the field, and specialize in one through research under the sponsorship of a faculty member. Areas include attitude change, judgment, social perception, aggression, interpersonal relations, and phenomenology. Each student is expected to begin research early, and is assisted in preparing a schedule that meets his interests and is at the same time well balanced.

MASTER OF ARTS

Experimental and Social Psychology Only

DEGREE REQUIREMENTS

33 credits, meeting the certifying requirement, and completing the predoctoral research requirement (Master's-level thesis).

Courses offered in this department are numbered as follows:

A. General and Core Courses:	PS 400-PS 499
B. Clinical Psychology:	PS 500-PS 599
C. Experimental Psychology and Social Psychology:	PS 600-PS 699

SE Courses in Special Education

The Department of Special Education offers programs leading to the degree of Master of Science, the Specialist's Certificate, and the degrees of Doctor of Education and Doctor of Philosophy. While completing degree requirements at the master's degree level, the student may ac-

quire state certification as a specialized teacher in one area of the education of exceptional children. Certificated teachers in special education may advance their knowledge through more extensive work in their field either as candidates for the Master of Science degree or as candidates for the Specialist's Certificate, a program beyond the master's level.

At the doctoral level, students are prepared as college and university teachers, and research scientists in special education.

The curriculum provides wide experiences ranging from lectures and seminars to practicums and internships. Facilities in nearby schools, institutions, clinics, and hospitals are utilized. Agency cooperation and supervision are an integral part of the program.

Doctoral students are admitted to either the Doctor of Education or Doctor of Philosophy degree programs, depending on their goals and previous preparation. All programs must be planned with a departmental adviser.

ADMISSION REQUIREMENTS

Students who plan to study toward a degree or certificate program in special education must submit scores on the Graduate Record Examinations (the Aptitude test and Advanced test in education).

Applicants for admission to teacher certification programs or degree programs with teaching as a goal must have met requirements for certification in teaching at the elementary level. Applicants for advanced certificate or degree programs must have basic preparation in a field or fields appropriate for the program to which admission is sought.

CERTIFICATION

Ferkauf Graduate School offers an approved master's degree program leading to New York State Certification for teaching mentally retarded children. Students interested in this program should consult with a member of the Department of Special Education.

MASTER OF SCIENCE

Students in Master of Science programs must ordinarily complete 33-36 credits, depending on the type of program in which they are enrolled and their previous professional preparation, and pass a comprehensive final examination. Program patterns for the Master of Science degree in Special Education with a major in Mental Retardation, in the Education of Behaviorally Disturbed Children, and in Learning Disabilities have been developed for the guidance of current students and interested applicants. Applicants should indicate their area of interest and previous preparation in special education.

Educational Foundations: 3 credits
Psychological and Sociological Foundations: 6-9 credits
Special Education Major Field: 24 credits

SPECIALIST'S CERTIFICATE

This department offers post-master's programs leading to Specialist's Certificates attesting to competence in special educational services. Specific requirements for this certificate are determined following a review of the student's scholastic record, experience, and needs. General requirements are:

ADMISSION REQUIREMENTS

A. One year of appropriate experience prior to formal study in the program.

B. Master's degree, or its equivalent, appropriate to the area of study or specialization.

DEGREE REQUIREMENTS

A. A minimum of 60 credits beyond the bachelor's degree.

B. A comprehensive final examination.

Acceptance as a candidate for the Specialist's Certificate is limited to highly promising and experienced students whose primary objective is enhancement of professional performance in their chosen concentration.

DOCTOR OF EDUCATION

DEGREE REQUIREMENTS

A. Successful completion of all required coursework and certifying and final comprehensive examinations.

B. Preparation and successful oral defense of a doctoral dissertation which represents a significant contribution to thought or extension of knowledge.

C. Evident promise of a superior level of professional performance, ethical conduct, and leadership in the field of special education.

D. Students concentrate in one of two areas: mental retardation or emotional disturbance.

E. Credit distribution:

1. Master's degree in an area specific to or related to special education, rehabilitation, or the equivalent.
2. 60-66 credits beyond the master's degree.
3. Study beyond the bachelor's degree (1 and 2 above) must total a minimum of 94 credits distributed as follows—

   Educational Foundations: 6 credits
   Psychological and Research Foundations: 18-24 credits
   Counseling and Guidance: 6 credits
   Sociology: 9 credits
   Special Education and Rehabilitation: 40-48 credits
   Electives: 12 credits

DOCTOR OF PHILOSOPHY

DEGREE REQUIREMENTS

A. Successsful completion of all required coursework, language requirements, certifying and final comprehensive examinations.

B. Preparation and successful oral defense of a doctoral dissertation which represents an original contribution to knowledge.

C. Evident promise of a superior level of professional performance, ethical conduct, and research competency in the field of special education.

D. Students concentrate in one of two areas: mental retardation or emotional disturbance.

E. Credit distribution:

1. A master's degree in an area specific to or related to special education, rehabilitation, or the equivalent.
2. 60-66 credits beyond the master's degree.
3. Study beyond the bachelor's degree (1 and 2 above) must total a minimum of 94 credits distributed as follows—

   Educational Foundations: 6 credits
   Psychological and Research Foundations: 18-30 credits
   Counseling and Guidance: 3-6 credits
   Sociology: 9 credits
   Special Education and Rehabilitation: 40-48 credits
   Electives: 12 credits

Courses offered in this department are numbered as follows:

A. Master's-Level Courses:	SE 100-SE 199
B. Advanced Master's Level and Beginning Doctoral-Level Courses:	SE 200-SE 299
C. Doctoral-Level Courses:	SE 300-SE 399

Registration for all courses numbered above 130 requires permission of the department. Prerequisites apply to all students.

EMPLOYER'S EXHIBIT No. 22-D

YESHIVA UNIVERSITY
WURZWEILER
SCHOOL OF
SOCIAL WORK

CATALOG 1972-74

55 FIFTH AVENUE • NEW YORK, N.Y. 10003

Wurzweiler School of Social Work

Administration

William A. Rosenthal, D.S.W.	Acting Dean
Solomon H. Green, D.S.W.	Assistant Dean

Faculty

Naomi R. Abramowitz, Assistant Professor of Social Work. B.A., University of Miami; M.S.W., Tulane University; Ed.D., Columbia University.

Esther Appelberg, Professor of Social Work. M.S.S.A., D.S.W., Case Western Reserve University.

Aaron H. Beckerman, Assistant Professor of Social Work. B.A., New York University; M.S.W., University of Pennsylvania; D.S.W., Columbia University.

Harriet Feiner, Assistant Professor of Social Work. B.A., Hunter College; M.S.W., Yeshiva University.

Leah Glass, Instructor in Sociology, Yeshiva College. B.A., Berea College; M.A., New York University.

David M. Goldenberg, Assistant Professor of Social Work. B.A., M.A., Tufts University; M.S., Columbia University.

Samuel M. Goldstein, Assistant Professor of Social Work. B.A., Brooklyn College; M.S.W., Tulane University.

Solomon H. Green, Professor of Social Work. B.A., Brooklyn College; M.S.S.A., Case Western Reserve University; Advanced Social Work Curriculum Certificate, D.S.W., University of Pennsylvania.

Martin Greenberg, William E. Wiener Associate Professor of Social Work. B.S., City College of New York; M.A., Indiana University; D.S.W., Columbia University.

Esther M. Lentschner, Assistant Professor of Social Work; Admissions Officer. B.A., M.A., Radcliffe College; M.S.S.A., Case Western Reserve University.

Louis Levitt, Associate Professor of Social Work. B.S.S., City College of New York; M.S., Columbia University; D.P.A., New York University.

Charles S. Levy, Professor of Social Work, B.S.S., City College of New York; M.S.W., Wayne State University; D.S.W., Columbia University.

Norman Linzer, Assistant professor of Social Work. B.A., M.S.S., Yeshiva University.

Murray Raim, Assistant Professor of Social Work. B.A., Brooklyn College; M.S.S.A., Case Western Reserve University.

William A. Rosenthal, Professor of Social Work. B.A., D.S.W., University of Pennsylvania; M.S., Columbia University.

Joel G. Sacks, Associate Professor of Social Work. B.A., Brooklyn College; M.S.W., New York University; D.S.W., Columbia University.

Lloyd Setleis, Professor of Social Work, B.A., Long Island University; M.S.W., Advanced Social Work Curriculum Certificate, D.S.W., University of Pennsylvania.

Max Stern, Associate Professor of Social Work. B.A., University of Wisconsin; M.A., University of Chicago.

Myra K. Tieder, Assistant Professor of Social Work. B.A., American University; M.S., Columbia University.

Norman Tokayer, Assistant Professor of Social Work. B.A., M.S.S., Yeshiva University.

Celia B. Weisman, Associate Professor of Social Work. B.S., M.S., Temple University; M.S.W., University of Pittsburgh; D.S.W., Columbia University.

Everett E. Wilson. Professor of Social Work. B.S., Pennsylvania State Teachers College; M.S.W., University of Pennsylvania.

FIELD INSTRUCTORS

Joyce Abrams, Beth Israel Hospital, New York. B.A., Brandeis University; M.S.W., New York University.

Sara Adler, Jewish Community Services of Long Island. B.A., M.S.W., Hunter College.

Lorraine Atho, Henry Street Settlement. B.A., Syracuse University; M.S., Columbia University.

Aaron H. Beckerman, East Flatbush-Rugby Young Men's and Young Women's Hebrew Association. B.A., New York University; M.S.W., University fo Pennsylvania; D.S.W., Columbia University.

Camille S. Berger, Jewish Family and Children's Service of Paterson. B.A., Hunter College; M.S., Columbia University.

Mortimer Bilenker, Hebrew Educational Society. B.S., Brooklyn College; M.S.W., Yeshiva University.

Sid Brail, Young Men's and Young Women's Hebrew Association of Essex County, B.A., University of British Columbia; M.S.W., University of Pennsylvania.

Edith Brodsky, Jewish Child Care Association of New York. B.A., Hunter College; M.S.W., Yeshiva University.

Daniel Caspi, Beth Israel Hospital, Newark. B.A., Hofstra University; M.S.W., Washington University.

Vivian Curtis, Downstate Medical Center. B.M., West Virginia State College; M.S.W., University of Michigan.

Maureen deBiccari, Jewish Board of Guardians. B.A., M.S.W., Hunter College.

Lee Donzilio, Greenwich House. B.A., Wagner College; M.S.W., New York University.

Elisabeth Enright, Nathan B. Van Etten Hospital. B.A., Douglas College; M.S.W., Yeshiva University.

Lillian Eron, Young Men's and Young Women's Hebrew Association of Essex County. B.A., Douglass College; Certificate, Graduate School of Jewish Social Work.

Samuel Finkelstein, Jewish Community Center of Staten Island. B.A., Brooklyn College; M.S.W., Rutgers University.

Helene Fishbein, East Flatbush-Rugby Young Men's and Young Women's Hebrew Association. B.A., Brooklyn College; M.S.W., Yeshiva University.

Charlotte Frank, Downstate Medical Center. B.A., University of Rochester; M.S., Columbia University.

Clara Frieder, French Hospital. B.A., Brooklyn College; M.S.W., Yeshiva University.

Arthur Gabler, Altro Health and Rehabilitation Services. B.A., City College of New York; M.S.W., Hunter College.

Morton Goldman, South Shore Young Men's and Young Women's Hebrew Association. B.S., New York University; M.S., Columbia University.

Lillian Goldstein, Jewish Family Service. B.A., University of California; M.A., University of Pennsylvania.

William Goldstein, Jewish Community Center of Stamford. B.A., M.S.W., Yeshiva University.

Gilbert S. Gordon, Brooklyn State Hospital. B.A., Hunter College; M.S.W., Yeshiva University.

Chaim Gruenwald, Educational Alliance. B.S., Brooklyn College; M.S.W., New York University.

Edward Grupper, Rockland County Community Mental Health Center. B.S., City College of New York; M.S., Columbia University.

Sidney Halpern, Hebrew Educational Society. B.A., M.S., City College of New York; M.S.W., Yeshiva University.

Kevin Harvey, Jewish Board of Guardians. B.S., St. Peter's College; M.S.W., St. Louis University.

Lillian Hershkowitz, Abraham Jacobi Hospital. B.A., Sir George Williams University; M.S.W., McGill University.

Esther Heyman, Jewish Child Care Association of New York. B.A., Wayne State University; M.S.W., Yeshiva University.

Bonnie Horen, Jewish Family Service. B.A., Bryn Mawr College; M.A., Temple University.

Bert Jahr, Young Men's and Young Women's Hebrew Association of Mount Vernon. B.A., Brooklyn College; M.S.W., New York University.

Stanley Jaslow, Henrietta and Stuard Hirschman Young Men's and Young Women's Hebrew Association of Coney Island. B.A., Brooklyn College; M.S.W., Adelphi University.

Sandra Kahn, Emanu-El Midtown Young Men's and Young Women's Hebrew Association. B.A., Brooklyn College; M.S., Columbia University.

Dorothy Kaiser, Veterans Administration Hospital. B.A., Antioch College; M.S.S., Smith College.

Eugene Kaminsky, Shorefront Young Men's and Young Women's Hebrew Associations of Brooklyn. B.S., City College of New York; M.S., Columbia University.

Al Kanefsky, Jewish Guild for the Blind. B.A., Brooklyn College; M.S.W., Yeshiva University.

George Kantor, Jewish Community Center of Staten Island. B.A., Brooklyn College; M.S., Columbia University.

Lester Kaufman, Ohel Children's Home. B.A., M.S.W., Yeshiva University.

Selma M. Keenan, Bureau of Child Guidance. B.A., Cornell University; M.S.W., Adelphi University; M.S., Columbia University.

Anita Kerman, Greenwich House. B.A., Pennsylvania State University.

Barbara B. Klein, Louise Wise Services. B.A., Smith College; M.S., Columbia University.

Tesse Kosoff, Jewish Child Care Association of New York. B.A., Hunter College; M.S., Columbia University.

Joan Lake, Abraham Jacobi Hospital. B.A., Skidmore College; M.S., Columbia University.

Harriet Leavitt, Nathan B. Van Etten Hospital. B.A., City College of New York; M.S., Columbia University.

Sarah Lederman, Jewish Association for Services to the Aged. B.A., Hunter College; M.S., Columbia University.

Marcia Lehrman, Jewish Community Services of Long Island. B.A., Hunter College; M.S.W., University of Pennsylvania.

Theda Lerner, Spence-Chapin Adoption Service. B.A., Hunter College; M.S., Columbia University.

Celia Levine, Bureau of Child Guidance. B.A., Ratcliffe College; M.S.W., Smith College.

Constance Levitan, Karen Horney Clinic. B.A., M.S.W., McGill University.

Barbara Lidsky, Maimonides Medical Center. B.S., M.S.W., New York University.

Zev Majdanski, Nathan B. Van Etten Hospital. B.A., University of Sydney; M.S.W., Yeshiva University.

Catherine Malfi, Nathan B. Van Etten Hospital. B.A., State University at Buffalo; M.S.W., Fordam University.

David Mann, Riverdale Young Men's and Young Women's Hebrew Association. B.A., M.S.W., Yeshiva University.

Morton Mintz, Bernard M. Baruch College. Certificate, Cooper Union for the Advancement of Science and Art.

Miriam Mishkoff, Maimonides Medical Center. B.A., Hunter College; M.S.W., Yeshiva University.

Jose Morales, Henry Street Settlement. B.A., City College of New York; M.S.W., Fordham University.

Marie O'Connell, Kennedy Child Study Center. B.A., Notre Dame College of Staten Island; M.S.W., Fordam University.

Lynn Polstein, Pleasantville Cottage School. B.A., Adelphi University; M.S.W., Yeshiva University.

Murray Raim, Abraham Jacobi Hospital. B.A., Brooklyn College; M.S.S.A., Case Western Reserve University.

Max H. Richter, Veterans Administration Hospital. B.A., City College of New York; M.S.W., New York University; M.A., University of Chicago.

Robert Roberts, Bronx State Hospital. B.S., Columbia University; M.S.W., New York University.

Steven Rod, Young Men's and Young Women's Hebrew Association of Essex County. B.A., Nasson College; M.S.W., Yeshiva University.

Leah Rosen, Bronx House. B.A., Hunter College; M.S., City College of New York; M.S., Columbia University.

Fred Rothenberg, Jewish Child Care Association of New York. B.A., Hunter College; M.S., Columbia University.

Gabriele Shiff, Selfhelp, Inc. B.A., Swarthmore College; M.S.W., University of Pennsylvania.

Arthur Schwartz, Soundview-Throgs Neck Community Mental Health Center. B.A., Alfred University; M.S., Columbia University.

Herbert Schwartz, East Flatbush-Rugby Young Men's and Young Women's Hebrew Association. B.A., Brooklyn College; M.S.W., Yeshiva University.

Carl Shackman, Eastern Union County Young Men's and Young Women's Hebrew Association. B.A., Brooklyn College; M.S.W., Adelphia University.

Josephine Scott, Bureau of Child Guidance. B.S., M.S.W., New York University.

Donna Simonie, Department of Social Services. B.S., University of Wisconsin; M.S.W., New York University.

Ann Somkin, Abraham Jacobi Hospital. B.A., Barnard College; M.S., Columbia University.

Frances Sosnoff, 92nd Street Young Men's and Young Women's Hebrew Association. B.A., M.S.W., Hunter College.

Esther E. Spitzer, Jewish Board of Guardians. B.S., Simmons College; M.S., Columbia University.

Gusta Thaun, Spence-Chapin Adoption Service. B.A., Hunter College; M.S., D.S.W., Columbia University.

Edith Thomas, Bronx State Hospital. B.A., Howard University; M.S., Boston University.

Alma Williams, Soundview-Throgs Neck Community Mental Health Center. B.A., Lincoln University; M.S.W., Atlanta University.

Ruth Wilson, Jewish Child Care Association of New York. B.A., University of Kansas; M.W.S., Carnegie-Mellon University.

Celia Wolsky, Bronx-Lebanon Hospital Center. B.S., City College of New York; M.S., Columbia University.

Phyllis Zeigler, Abraham Jacobi Hospital. B.A., Boston University; M.S., Columbia University.

Herman L. Zimmerman, Young Men's and Young Women's Hebrew Association of Greater Flushing. B.A., Brooklyn College; M.S., Columbia University.

Yeshiva University

Yeshiva University is a private institution under Jewish auspices chartered by the State of New York; it is accredited by the Middle States Association of Colleges and Secondary Schools and by specialized professional agencies and is a member of the College Entrance Examination Board. The undergraduate colleges and a graduate schools of natural sciences, social sciences, and humanities offer programs leading to bachelor's, master's and doctoral degrees.

In addition to its extensive teaching programs, the University conducts a network of affiliates, community service agencies, and a widespread program of research, and publishes several scholarly journals.

Yeshiva University traces its origins to Yeshiva Eitz Chaim, founded in 1886 on New York's Lower East Side. Ten years later the Rabbi Isaac Elchanan Theological

Seminary was founded there, and in 1915 the two schools merged under the name of the latter.

Under the dynamic leadership of Dr. Bernard Revel, who served as president from 1915 until his death in 1940, the institution embarked on a plan of educational development and growth. In 1929 the institution moved to its present Main Center in Manhattan's Washington Heights. Liberal arts programs began with the establishment of Yeshiva College in 1928, and the first graduate curriculum—in Semitics—was introduced in 1935.

The University's five undergraduate schools and seven graduate schools are located in Manhattan (Main Center, Washington Heights; Midtown Center, 245 Lexington Avenue; Graduate Center, 55 Fifth Avenue) and the Bronx (Eastchester Road and Morris Park Avenue). The Main, Midtown, and Bronx Centers have dormitory and dining facilities. Each school is so conducted as to assure friendly, informal, and educationally sound relationships between students and faculty. All units thus retain the character and virtues of small institutions.

The Mendel Gottesman Library at the Main Center is a $5,000,000, six-story, block-long central university library with a capacity of 500,000 volumes. Here are the Jesselson Museum, University Archives, and Rare Book and Manuscript Room. In addition there are specialized libraries at all the centers.

Its present programs and plans for the future reflect Yeshiva University's ever-growing concern with America's most pressing needs. For more than eight decades the University has taken a position of leadership in higher education, serving the community and the nation as a whole.

Wurzweiler School of Social Work

Wurzweiler School of Social Work, established in 1957, represented the culmination of efforts which persisted over half a century to establish Jewish-sponsored social work education. It is the first graduate social work educational program under Jewish auspices in a university setting.

The School is accredited by the Council on Social Work Education.

The moral, ethical, and spiritual foundations of social work are of special interest to the School. Particular emphasis is placed on the infinite worth of each individual and the obligations of social justice as the base for social work values—principles basic to Judaism.

The study of culture in relation to social work generally, and the study of Jewish cultural forces affecting social welfare within the Jewish community specifically, are integral parts of the School's program.

Relationships are maintained with the general field of social welfare—locally, nationally, and internationally—as well as with Jewish communal services both at home and abroad.

The School prepares both men and women for service in the Jewish and general community. A two-year graduate program of full-time study is offered, leading to the Master of Social Work degree. Students who already hold a master's degree may pursue a three-year program, beyond the M.S.W., leading to the Doctor of Social Welfare degree.

The objective of the Master's degree program is to educate students so that they may become competent social workers with the necessary knowledge, attitudes, and skills for beginning practice in a variety of settings. It aims to prepare well-qualified persons who will have a deep sense of social responsibility and a foundation, both in motivation and understanding, from which they can continue to pursue new knowledge and so render more effective social service. Graduates are expected to combine a high quality of skill in the social work processes with deep concern for social policies.

The objective of the Doctoral degree program is to further the education of selected social workers for creative and scholarly leadership in social work practice, education, social policy, planning, and research, particularly in Jewish communal service.

LIBRARY

Students may utilize the resources of the Graduate Center Library. The social work section includes the library of the Training Bureau for Jewish Communal Service, terminated in 1951. Special collections are the William Posner Collection on the Care of the Aging and the William Steinberg Collection on Community Organization, which honors the memory of an alumnus. In addition, study and research materials are available at five other Yeshiva University libraries.

ALUMNI ASSOCIATION OF WURZWEILER SCHOOL OF SOCIAL WORK

The Alumni Association of Wurzweiler School of Social Work enables graduates to maintain close relationships with fellow students and faculty members and to aid in the development of the School. Through meetings and various other events, members share mutual professional interests and knowledge. *The Jewish Social Work Forum*, a semiannual journal published by the Association, provides professional articles of concern to persons engaged in this field.

The operations of the Alumni Association of Wurzweiler School of Social Work and all other University alumni groups are coordinated by the Alumni Office, Yeshiva University, 500 West 185th Street, New York, N.Y. 10033.

SOCIAL WORK AS A PROFESSION

The profession of social work offers a promising career to men and women who are interested in human service. The development of social welfare services in recent years has created a demand for qualified personnel. The improved status of social work as a profession has raised salary standards to the highest point in the history of social work. Openings exist in government and voluntary agencies, with positions available in the Jewish field in this country and abroad, where there is an increasing

demand for professionally prepared personnel with knowledge of Jewish communal institutions and values.

Social workers, engaged in the exacting and exciting task of serving their fellow men, require both knowledge and skill. Much of this knowledge comes increasingly from the human sciences which undergird the various human service professions. The Master's degree program provides the requisite knowledge and develops the essential skills for beginning practice. Contemporary social and professional problems confronting social work in particular and society in general require—at the Doctoral level—scholarly practitioners and leaders to work for constructive solutions.

The profession of social work answers with a ringing affirmative the Biblical question, "Am I my brother's keeper?" The social worker's daily activities not only test his capacity and commitment, but provide a vital demonstration of his deep belief that all men are brothers and that he is dedicated to their service.

CURRICULUMS

Master of Social Work

The Master of Social Work degree program is organized in accordance with the curriculum policy of the Council on Social Work Education. Courses are grouped under the following headings: Social Work Practice, Social Services, Man-in-Society. The School has enriched the basic curriculum by including content designed to provide the student with knowledge and understanding of the purpose and ethos of Jewish social services.

Social Work Practice

The student gains a knowledge of social work practice through a planned sequence of courses designed to stimulate a scientific attitude of mind and a disciplined approach to social problems and human relationships. Class and field instruction are integrated and provide continuity in learning and progression from the simple to the more complex. Such progression has its best beginning in person-to-person, person-to-group, and person-to-community practice in which the interplay of social influences and psychological forces may be observed with greatest clarity. In this practice the student learns to utilize professional methods and to apply his increasing knowledge in the most effective manner.

In addition to the concentration which the student selects in social casework, social group work, or community organization, opportunities are provided for developing familiarity with the other methods in social work practice. The School emphasizes research as part of professional education and social work practice.

Class and field instructors share responsibility for assisting the student to develop proficiency in using professional skill and knowledge about individual and group behavior and social organization.

Social Services

A deep understanding of the social services is acquired through study of current social-welfare programs under public and voluntary auspices, together with their historical development and progress toward meeting the needs of the people. This area includes: study of the social services as they are affected by social, legal, political, and economic influences; evaluation of the social services in relation to the social and individual needs which they are designed to meet; analysis of the contributions of social work leaders; and an appraisal of the role of the social work profession in the formulation and execution of progressive social policy. Attention is given to the range, variety, and interrelationships of social welfare programs and their actual implementation in the light of accepted standards. To prepare the student for professional practice in the Jewish community, the philosophy, structure, and programs of Jewish communal institutions are studied.

Man-in-Society

The study of human behavior provides an indispensable base for all social work activity. Opportunities are afforded for the student to develop insight into his own feelings and behavior in order to foster self-understanding for professional use of self. Physical, mental, and emotional growth are considered in the light of social, cultural, and spiritual influences upon the development and functioning of the individual. This requires study of the individual from the primary patterning of early family relationships through the subsequent periods of life. Study of the interaction between the individual and his environment accompanies consideration of each stage of development. Attention is also given to deviations from the normal as manifested in social and emotional difficulties, and in physical or mental disability. Basic knowledge and understanding are acquired concerning group behavior and group relationships as they affect or are affected by the personalities, needs, and interests of the group members. Stress is placed on understanding personality-in-culture, with particular attention to the Jew in American society as a special instance of man-in-society.

AREAS OF CONCENTRATION

The School offers concentrations in social group work, social casework, and community organization. The nature of the field placement and of the practice sequence is determined by the student's choice of area of concentration. All students follow the same program of study in Social Services and Man-in-Society regardless of their area of concentration.

STUDENT ADVISING

To help carry forward the individualized nature of the School's program, each student is assigned a faculty adviser who works closely with him in all aspects of his relationship to the School. Faculty advisers hold periodic conferences with students and field instructors, and are readily available for consultation.

FIELD INSTRUCTION

Social work is a "doing" profession. Therefore students learn through supervised field practice in social agencies. The field instruction requirement for the Master's degree includes a minimum of 1,260 hours of field instruction concurrent with classroom courses. Ordinarily each student has a placement of approximately 630 hours during each academic year. This affords the opportunity for practical educational experience in two different agencies.

The social welfare resources of the metropolitan area offer a wide variety of field placement opportunities in excellent agencies under well-qualified supervisors. Students are placed on an individual basis and close liaison is maintained between the student's faculty adviser and his field instructor.

The following social agencies offered placements for field instruction during the academic year 1971-72:

Altro Health and Rehabilitation Services, Inc.

Bernard M. Baruch College

Beth Israel Hospital, New York

Beth Israel Hospital, Newark

Bronx House

Bronx-Lebanon Hospital Center

Bronx State Hospital

Brooklyn State Hospital

Bureau of Child Guidance

Department of Social Services, City of New York

Downstate Medical Center

East Flatbush-Rugby Young Men's and Young Women's Hebrew Association

Eastern Union County Young Men's and Young Women's Association

Educational Alliance

Edwin B. Elson Young Men's and Young Women's Hebrew Association of Brighton Beach

Emanu-El Midtown Young Men's and Young Women's Hebrew Association

FDR Veterans Administration Hospital

French Hospital

Greenwich House

Hebrew Educational Society

Henry Street Settlement

Henrietta and Stuard Hirschman Young Men's and Young Women's Hebrew Association of Coney Island

Karen Horney Clinic

Abraham Jacobi Hospital

Jewish Association for Services to the Aged

Jewish Board of Guardians

Jewish Child Care Association of New York

Jewish Community Center of Englewood

Jewish Community Center of Staten Island

Jewish Family and Children's Service of Paterson

Jewish Family Service

Jewish Guild for the Blind

Kennedy Child Study Center

Maimonides Community Mental Health Center

92nd Street Young Men's and Young Women's Hebrew Association

Ohel Children's Home

Pleasantville Cottage School

Riverdale Young Men's and Young Women's Hebrew Association

Rockland County Community Mental Health Center

Selfhelp, Inc.

Soundview-Throgs Neck Community Mental Health Center

South Shore Young Men's and Young Women's Hebrew Association

Spence-Chapin Adoption Service

Nathan B. Van Etten Hospital

Louise Wise Services

Young Men's and Young Women's Hebrew Association of Essex County

Young Men's and Young Women's Hebrew Association of Greater Flushing

Young Men's and Young Women's Hebrew Association of Mount Vernon

DOCTOR OF SOCIAL WELFARE

The Doctor of Social Welfare degree program is designed to further the education of selected social workers for creative and scholarly leadership in social work practice, education, social policy, planning, and research, particularly in Jewish communal service.

Candidates integrate practice experience with concepts drawn from the knowledge base of social work and related disciplines. Content and direction of elective and required seminars are developed by students and faculty to satisfy individual interests and requirements.

Contemporary social and professional issues confronting social work, with special significance for Jewish communal service, provide a focus for the understanding of social work philosophy, knowledge, and values. Through independent and creative scholarship, candidates exam-

ine, clarify, and evaluate the appropriateness of social work practice as an institutionally based professional activity within the structure of American society and Jewish communal life.

First-year field study, guided by a field consultant and faculty preceptor, offers the opportunity to test social work methods and programs in selected agencies through systematic innovation and experimentation.

In 1971-72, doctoral field study assignments were carried out at the following:

Adelphi University School of Social Work

Columbia University School of Social Work

Community Council of New York

Montefiore Hospital and Medical Center

Rockland Community College

SPECIAL PROGRAMS

In cooperation with the Federation of Jewish Philanthropies of New York, the School is introducing, effective September 1972, a community organization concentration. This two-year program leading to the Master of Social Work degree is parallel to the existing casework and group work concentrations. In addition to financing the School's William E. Wiener Chair in Jewish Communal Organization, the Federation is making its lay and professional leadership and network of services available for field instruction and educational enrichment opportunities. A limited number of fellowships are available.

The Psychiatric Social Work Training Project, financed by the National Institute of Mental Health, was initiated in 1961 by Wurzweiler School of Social Work with the cooperation of the Department of Psychiatry of Abraham Jacobi Hospital and Albert Einstein College of Medicine of Yeshiva University. It is designed to develop social group work services and field instruction placements in

the Department of Psychiatry for social group work students. Stipends are available to selected students for the two-year period of social work education. During their second year they are placed for field instruction in the Department of Psychiatry of Abraham Jacobi Hospital or another psychiatric setting.

The Social Group Work Training Project is conducted in collaboration with the East Flatbush-Rugby Young Men's and Young Women's Hebrew Association and has been financed since 1967 by the National Institute of Mental Health. The project, providing stipends to selected students, is designed to explore the relationship between a social agency and a school of social work in the social work educational process. It aims to improve this relationship to enhance the quality of the education offered at the Wurzweiler School.

Begun in 1971 as an experiment and cosponsored by the Jewish Agency and American Zionist Youth Foundation, the Summer Program in Israel is moving toward permanent status. Plans are underway for an annual program to provide qualified and committed young social workers for Jewish social agencies in Israel and the United States. To facilitate individualized experience, as well as optimum educational quality control and cost effectiveness, 15-20 students wil be enrolled. The year-round program coordinator is to be an Israeli social work educator. Working relationships have been established with key Israeli social work institutions, in education as well as in practice. Eligibility requirements include one year of a Master of Social Work program, knowledge of the Hebrew language, and references confirming abilities and Jewish interests.

Aided by a grant from the Atran Foundation, the School invites outstanding leaders in social welfare to give lectures from time to time.

Having helped to initiate social work education programs at the University of Zambia in Africa and Bar-Ilan University in Israel, the School has a special interest in social

work and social work education in Israel, Africa, and other parts of the world.

Degree Requirements

Master of Social Work

Requirements for the degree of Master of Social Work include:

1. Prescribed courses.
2. Minimum of 1,260 hours of field instruction.
3. A substantial written document, required at the end of the second year as a culminating, integrative work reflecting the student's experience in class and field.

Courses meet at least 100 minutes a week for a semester of 15 weeks (including examinations) or the equivalent time. The normal program in a semester is four or five courses plus field instruction (21 hours a week). For transfer and other relevant purposes, each course may be considered as carrying 2 credits and field instruction 6 credits each semester.

During the 1972-73 academic year, all students are required to pursue a program with innovative curriculum features designed by a joint faculty-student curriculum committee.

All requirements must be completed within five years after admission.

Doctor of Social Welfare

Requirements for the degree of Doctor of Social Welfare include:

1. Prescribed and elective seminars.
2. One full-time year, during which two days each week are devoted to academic study and a minimum of two days each week are spent in field study.

3. Oral and written comprehensive examinations, focusing on plan of study.
4. Dissertation.

Regulations

Grades

The work of each student is graded on the following basis:

P Passed

F Failed

Inc Incomplete

V Visitor (registered for course; no qualitative grade assigned)

W Withdrew without penalty

Y Year course; June grade applies to both semesters

Withdrawal from courses requires the permission of the Office of the Dean. Unless this permission is obtained, the student will receive an F in those courses from which he has absented himself. Except under unusual circumstances, withdrawal from a course is not permitted after the first month of sessions.

Students graded Inc must complete the required work within two weeks of the close of the semester, unless permission for an extension is granted by the instructor and approved by the Office of the Dean.

Dissertation courses are graded as follows:

S Satisfactory progress; credit granted when dissertation is accepted

P Passed; dissertation accepted

R Repeat; student must retake course

Leaves of Absence

Students who are unable to return to the School because of government service, illness, personal or certain academic reasons, or who wish to study at other institutions,

must request a formal leave of absence on Form M13 if they expect to return at some future time. Students who discontinue their studies without such written approval may be denied readmission.

Three types of leaves are available:

1. *Leave with maintenance of status*—for students who are not registered for courses but are preparing for examinations or working on dissertations.
2. *Leave with maintenance of registration*—for students who are not registered for courses and are not preparing for examinations or working on dissertations.
3. *Government service leave of absence*—for students entering full-time service in the armed forces or in ACTION (Peace Corps and VISTA). No charge is made for such a leave during the period of actual service.

Sympathetic consideration will be given to a request by a student returning from an official leave who wishes to continue his course of study under the requirements in force at the time he was granted the leave.

Except for the purpose of government service, leaves will normally be granted for a maximum of two semesters.

Students must file for leaves of absence by the end of the late registration period of the semester for which the leave is desired. A student who neither registers nor secures an official leave of absence for any semester will be considered as having withdrawn from the School. Such a student who wishes to resume his studies will be required to apply for readmission.

The schedule of fees appears on page 28.

Records and Transcripts

A transcript is not issued for a student without his written request, except to another school or to a government agency. In these cases, transcripts are issued upon the request of the school or agency. A transcript is not sent

to an employer or prospective employer without the student's permission.

Records of students are sent only in the form of a transcript. No partial records are sent, or ones listing only courses without grades.

A transcript will not be issued for a student who has an overdue debt to the University or has failed to return all books to the Libraries.

A student who wishes to change either his first or last name on School records must file Form M25 in the Office of the Registrar.

Students who believe that there is an error in their academic record (e.g., in a grade, average, credit value, or course description) must promptly call this to the attention of the Office of the Registrar. Even if there has been a mistake on the part of the University, no request for a correction will be entertained unless the student notifies the Office of the Registrar within three months.

Diplomas

Duplicate or revised diplomas can be secured under certain circumstances determined by the standards accepted by American universities. Full information is given on Form G15, available in the Office of the Registrar.

Change of Address

Students who change their home or local residences are required to notify the Office of the Registrar of the change of address within 10 days on Form M29. A student is responsible for all mail sent to his old address if he has not so notified the University.

Graduation

Commencement exercises are held each June at the close of the academic year. Diplomas are issued thereafter. However, degrees may be awarded at the close of the summer, fall, and spring terms. A student applies for a degree by filing a Graduation Kit during the registration

period of the term during which he expects to complete all requirements for the degree. Final dates for filing are listed in the Academic Calendar.

Should the degree not be awarded during that term, a Graduation Kit must be refiled *every term* until the degree is awarded. Graduation fees paid initially remain valid for an additional three consecutive terms and need not be paid again unless more than two years elapse between payment and award of degree.

Student Responsibility

It is the responsibility of each student to ensure that he has observed all regulations, paid all fees, and met all course requirements, including prerequisites whenever such are required. The degree candidate should note that completion of the specified number of credits does not in itself satisfy degree requirements.

Academic Discipline

The admission of a student, his continuance upon the rolls of the School the receipt by him of academic credits, his graduation, and the conferring of any degree, diploma, or certificate upon him is entirely subject to the disciplinary powers of the School and to the student's maintaining high standards of ethical and scholarly conduct. The School is free to dismiss him at any time for infringement of these standards.

Messages

The School cannot transmit personal telephone messages to students except in dire emergency. Students should instruct their friends and family not to telephone them at the School.

Injuries

All injuries and accidents to students while engaged in classroom work will be reported by the faculty member in charge of the course. Students are required to report

immediately to the Office of the Dean any other injury suffered on University premises.

Posters and Notices

All posters and notices must be countersigned by the appropriate administrative officer of the School before they are displayed. Students should regularly examine School bulletin boards for official notices.

Use of the University's Name

No student or student organization may use the name of the University or of the Wurzweiler School in print for any purpose, including identification, without written permission from the Office of the Dean.

Admission Procedure for Regular Students

There is only one category of students accepted into the degree programs at Wurzweiler School of Social Work—Regular students. These are students who have met the admission requirements and have been accepted as candidates for the degree of Master of Social Work or Doctor of Social Welfare. A limited number of offerings may be available in the evening for Transient students who wish to enroll for courses to meet their particular needs without entering a degree program.

Under the admission policy of the University there is no discrimination in regard to sex, religion, age, race, color, or national origin.

REQUIREMENTS

Master of Social Work

1. A bachelor's degree or its equivalent from an accredited college or university.
2. Capability of performing graduate work, as indicated by satisfactory grades in undergraduate courses.
3. Personality suitable for the social work profession.

4. Good health, as indicated by a physician's certificate based on a complete physical examination.

Doctor of Social Welfare

1. A master's degree in social work from an accredited college or university. Applicants without this degree may be considered for admission but may be required to complete specified work at the master's level before admission to doctoral candidacy.
2. Intellectual competence, evidenced by superior performance in previous academic work.
3. At least three years of successful professional social work experience.
4. Personality attributes suitable for creative and scholarly leadership.
5. Good health, as indicated by a physician's certificate based on a complete physical examination.

ADMISSION PROCEDURE

1. Candidates considering applying for admission are urged to talk with the faculty of the School for help in career or course planning. Such assistance will be extended gladly at any time. Admission forms can be secured during the course of these inquiries or in response to written, personal, or telephone requests.
2. New students are admitted only for the Fall Semester. Applications should be filed before February 15 of the year in which the candidate wishes to enroll.
   a) A limited number of selected candidates may receive early notification of the decision on their application.
   b) Qualified candidates applying after February 15 may be considered as late applicants.
3. All applicants are given full consideration and are carefully reviewed after necessary documents and transcripts have been received. In some instances,

candidates may be required to have an admissions interview. For candidates whose residence does not readily permit an interview in New York, arrangements can be made for interviews elsewhere.

4. Candidates for the Master's degree are not admitted with conditions.
5. Notifications of acceptance include the requirement that a deposit of $50 be paid on receipt of the notification. This deposit is applied to the Fall Semester tiution and is not refundable. Failure to pay the deposit within two weeks of notification is deemed to constitute a withdrawal.

Since School facilities are limited and the program requires small classes and individual attention to students, the number of candidates that can be admitted is less than the number of those qualified. The Admissions Committee carefully evaluates each candidate, taking into account the application material, academic record, references, and impressions of the admissions interviewer. Decisions of the Admissions Committee are final.

ADVANCED STANDING

Students wishing to transfer or enter with advanced standing are required to meet the criteria for admission and to follow the degree requirements set by Wurzweiler School of Social Work.

Transfer credit can ordinarily be granted only for work done at another accredited school of social work within five years from the date credit is requested.

All evaluations of work done elsewhere are tentative and subject to re-evaluation on the basis of the student's work at Yeshiva University. Transfer credits may be revoked, either in whole or in part, if subsequent work, either generally or in a particular subject, is not satisfactory.

Every request for advanced standing will receive full consideration to determine what may be credited toward the degree awarded by this School, based upon evidence

of the student's previous academic standing and achievement.

The School's program is in keeping with its particular objective of preparing social workers for Jewish communal service. Accordingly it is unlikely that a transfer student who has completed the first year at another school of social work can meet all the master's degree requirements in one academic year.

EXTENDED PROGRAM

A special program is available for a limited number of Master's degree candidates who cannot meet all requirements in two years of full-time study. This program is individually designed to meet the needs of married women with children but is not limited to persons in that category.

Extended-program students have a maximum of five years in which to complete the degree requirements. A limited number of selected courses may be taken on a part-time basis. Some courses must be taken concurrently with field instruction.

There is no diminution in the degree requirements or expected standards of performance for extended-program students.

Student Finances

TUITION AND FEES

Tuition for full-time Master's degree candidates is $1,000 per semester.

Tuition for full-time Doctoral degree candidates is $1,200 per semester.

Tuition for each semester course is $130 per semester.

Tuition for extended-program students will be computed on a per-course basis, with field instruction considered as equivalent to three semester-courses ($390 per semester).

The application for admission fee is not refundable and is not credited on any subsequent bill.

Application for Admission	
Master's Program	$15.00
Doctoral Program	25.00
University Registration Fee, per semester	25.00
Student Activities Fee, per year	10.00
Graduation Fee	25.00
Transcripts of Record, each, regular service	2.00
rush service	5.00
Late Registration or Change of Program Fee	5.00
Maintenance of Registration	
Per semester	20.00
Per year	35.00

University regulations require the payment in full of all tuition and fees in order to complete registration. Make checks or money orders payable to Yeshiva University. All payments must be made directly to the Office of Student Finances; no one else is authorized by the University to accept payments. All outstanding accounts for previous academic work in any division of the University must be cleared before registration for additional credits can be approved. Students will therefore not be permitted to register until all outstanding balances have been paid.

WITHDRAWAL

Students who withdraw within the first month of sessions are eligible for a refund of 75% of the tuition paid. Registration and other fees are not refundable. Students who withdraw after this date are not eligible for a refund and are responsible for the full tuition for the entire semester.

To receive a refund the student must submit a written request to the Office of Student Finances and surrender the Student Identification Card.

FINANCIAL AID

The School makes every effort to help students who require financial assistance. Since the program of study in social work is a heavy one, part-time employment is inadvisable. University loans, covering all or part of tuition, may be granted to a limited number of students. Some agencies which offer field instruction opportunities provide agency stipends to students. Scholarships and loan funds, administered by national and state agencies, are available.

Since eligibility requirements vary considerably, candidates are urged to discuss their personal circumstances with the School's Admissions Officer. They may also consult with the Office of Student Finances.

Students should be aware of employment commitments and other conditions under which study grants are made, and consider their professional interests as well as their circumstances and needs.

The School selects the recipients of mental health and child welfare traineeships. In addition, some agencies request that the School designate the candidates to be recommended for scholarships. Students are therefore asked to apply to the School for these scholarships rather than to the granting agency, although the final selection is generally made by the agency.

The family of the late Naomi Anolic, a 1969 graduate of the School, has established a tuition scholarship of $500 in her memory.

Students preparing for Jewish communal service may direct inquiries about student aid to the National Jewish Welfare Board, 15 East 26th Street, New York, N.Y. 10010; Council of Jewish Federations and Welfare Funds, 315 Park Avenue South, New York, N.Y. 10010; and Federation of Jewish Philanthropies of New York, 130 East 59th Street, New York, N.Y. 10022.

Two useful publications are: "Social Work Fellowships and Scholarships in the United States and Canada," available from the Council on Social Work Education, 345 East 46th Street, New York, N.Y. 10017; and "Grants to Students in Graduate Schools of Social Work," available from the Family Service Association of America, 44 East 23rd Street, New York, N.Y. 10010.

National Direct Student Loan Program

The National Direct Student Loan Program was authorized by the National Defense Education Act of 1958 Title II, and amended by the Higher Education Act of 1965. The principal aim of this law is "to insure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States." It provides for the establishment of loan funds from which needy undergraduate and graduate students may borrow on reasonable terms for the purpose of completing their higher education.

TERMS OF THE LOAN

1. A student may borrow in one year a sum not exceeding $2,500, and, during his entire course of study, a sum not exceeding $10,000.
2. The borrower must sign a promissory note in which he agrees to the interest and repayment terms established by Yeshiva University and the U.S. Office of Education.
3. Repayment of the loan begins 9 months after the borrower ceases to be at least a half-time student and must be completed within 10 years thereafter, in quarterly payments.
4. No interest accrues prior to the beginning of the repayment schedule; thereafter interest is to be paid at the rate of 3% per year.
5. In the event of the borrower's death or permanent and total disability, obligation to repay the loan is canceled.

6. If the borrower undertakes service after June 30, 1972, as a (a) full-time teacher in a public or nonprofit private elementary or secondary school in a school district of a local educational agency eligible that year for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965 and designated by the U.S. Comissioner of Education in accordance with the provisions of Section 465(A)(2) of the Act as a school with a high enrollment of students from low-income families, OR as a (b) full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who require special education) in a public or nonprofit elementary or secondary school system, the loan is reduced at the rate of 15% of the principal plus interest for the first and second year of service, 20% of the principal plus interest for the third and fourth year, and 30% of the principal plus interest for the fifth year.
7. If, after June 30, 1972, the borrower becomes a full-time staff member in a preschool program carried on under Section 222(A)(1) of the Economic Opportunity Act of 1964 (Head Start) which is operated for a period comparable to a full school year in the locality, and his salary is not more than the salary of a comparable employee of the local educational agency, the loan is reduced at the rate of 15% of the principal plus interest for each year of such service.
8. If, after June 30, 1972, the borrower serves as a member of the armed forces, up to 50% of the loan is reduced at the rate of 12½% of the principal plus interest for each year of service in an area of hostilities that qualifies for special pay under Section 310 of Title 37, U.S. Code.
9. The borrower is responsible for informing the University of any change in his address.

WHO IS ELIGIBLE

Incoming students as well as those currently attending the School may apply if they can satisfy the requirements listed below. Final determination of eligibility is made by Yeshiva University.

1. The applicant must show that the loan is needed to complete his course of study
2. The aplicant must carry at least one half the normal full-time credit load for his degree program as determined by Yeshiva University.
3. The applicant must, in the opinion of the School, be capable of maintaining good academic standing.
4. The applicant must be a United States National. (The term "National" includes not only citizens, but all students in the United States on a permanent resident basis.)

A student is not eligible for a National Direct loan grant for summer session work unless he has been in *half-time* attendance during the preceding academic session or plans to be in *half-time* attendance during the following academic period.

Interested students are urged to submit their application at least two months prior to the registration period of any given semester.

New York State Scholar Incentive Award Program

New York State residents attending the School on a *full-time* basis are eligible for Scholar Incentive Awards if they maintain satisfactory academic standing. A full-time student is defined as a student who is registered for a minimum of 12 credits per semester or their equivalent. The stipend varies, depending on family income and tuition, from $100 to $300 per semester. However, the award cannot exceed the amount by which tuition for the semester (not including fees) exceeds $100. Holders of Regents Scholarships or Fellowships may also receive a Scholar Incentive Award, but it cannot be more than

the amount by which tuition for the semester exceeds the scholarship or fellowship.

Applications should be filed with the State before July 1 for each academic year but will be accepted up to December 1. Applications for only the Spring Semester have an April 1 deadline. *Annual* application is required. For further information and application contact the Regents Examination and Scholarship Center, State Education Department, 99 Washington Avenue, Albany, N.Y. 12210.

State-Guaranteed Loans

NEW YORK STATE HIGHER EDUCATION ASSISTANCE CORPORATION

The Higher Education Assistance Corporation was established by New York State to assist qualified students to meet financial need during their years of undergraduate or graduate study. The program makes possible low cost commercial bank loans with very liberal repayment terms similar to those of the National Direct Student Loan Program. New York State residents attending the School are eligible for these loans. For applications and further information write to the New York Higher Education Assistance Corporation, 50 Wolf Road, Albany, N.Y. 12205.

NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY

A loan program somewhat similar to that of New York State is available to residents of the State of New Jersey. For information and applications, residents of New Jersey should contact the Scholarship and Loan Program, State of New Jersey, Department of Education, 175 West State Street, Trenton, N.J. 08625.

Students interested in state-guaranteed loans in other states should contact their state education department.

Programs of Study

Master of Social Work

First Semester

SW 200	Social Group Work I or
SW 221	Social Casework I or
SW 231	Community Organization I
SW 211	Methods and Materials in Social Group Work [1]
SW 260	Social Welfare Organization I
SW 270	Growth and Behavior I
SW 272	The Jew in American Society
SW 400.1	Field Instruction I

Second Semester

SW 210	Social Group Work II or
SW 222	Social Casework II or
SW 232	Community Organization II
SW 250	Social Research I
SW 261	Social Welfare Organization II
SW 271	Growth and Behavior II
SW 400.2	Field Instruction I

Electives: One or both of the following—

SW 264	Health and Disease
SW 273	Society: Social and Group Process

Third Semester

SW 212	Social Group Work III or
SW 223	Social Casework III
SW 251	Social Research II
SW 275	Psychosocial Pathology
SW 280	Jewish Social Philosophy
SW 401.1	Field Instruction II

Fourth Semester

SW 257	The Social Worker
SW 267	The Social Work Agency
SW 277	Client and Client Systems
SW 287	Social Work Philosophy
SW 401.2	Field Instruction II

Electives: One or two of the following—

SW 214	Essentials of Social Group Work for Casework Students

[1] Required for social group work majors only.

SW 220	Essentials of Social Casework for Group Work Students
SW 231	Community Organization I or
SW 232	Community Organization II
SW 240	Administration

DOCTOR OF SOCIAL WELFARE

First Year

SW 300.1, 300.2	Patterns of Social Work Practice
SW 350.1, 350.2	Strategies of Inquiry
SW 365.1, 365.2	Colloquium I
SW 369.1, 369.2	Preceptorship—Tutorial
SW 378.1, 378.2	Theoretical Foundations for Social Work Practice
SW 384.1, 384.2	Ideology
SW 500.1, 500.2	Field Study

Second Year

SW 351.1, 351.2	Dissertation Seminar
SW 366.1, 366.2	Colloquium II
SW 368	Jewish Identity (Second Semester)
SW 370.1, 370.2	Tutorial Advising
SW 385	The Urban Crisis (First Semester)

Two Electives

Third Year

SW 367.1, 367.2	Colloquium III
SW 390.1, 390.2	Dissertation

EMPLOYER'S EXHIBIT NO. 22-E

YESHIVA UNIVERSITY

BERNARD REVEL
GRADUATE SCHOOL

HARRY FISCHEL
SCHOOL FOR HIGHER
JEWISH STUDIES

CATALOG 1970-72

WASHINGTON HEIGHTS • NEW YORK, N.Y. 10033

Bernard Revel Graduate School

Harry Fischel School for Higher Jewish Studies

Administration

FACULTY EXECUTIVE COMMITTEE

Sidney B. Hoenig, Ph.D. ..... Chairman

Leo Landman, Ph.D. ..... Secretary

Irving A. Agus, Ph.D. ..... Member and Administrator, Harry Fischel School

Meyer S. Feldblum, Ph.D. ..... Member

Pearl Kardon ..... Recorder

Jacob I. Dienstag, M.S. in Library Service .... Librarian, Mendel Gottesman Library

Larry S. Wachsman, M.S. ..... Assistant Registrar

Faculty

Irving A. Agus, Professor of Jewish History. B.S., New York University; Ph.D., Dropsie University.

Michael Bernstein, Associate Professor of Bible. B.A., D.H.L., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary.

Gershon A. Churgin, Professor of Hebrew Literature and Jewish Philosophy. B.A., M.A., Columbia University; Ph.D., Johns Hopkins University.

Abraham G. Duker, Professor of History and Social Institutions. B.A., City College of New York; Ph.D., Columbia University.

Shlomo Eidelberg, Professor of Jewish History. M.A., Hebrew University, Israel; D.H.L., Yeshiva University; Ph.D., Dropsie University.

Meyer S. Feldblum, Associate Professor of Talmudic Literature. B.A., Ph.D., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary.

Joshua Finkel, Professor of Semitic Languages and Literatures. B.A., New York University; Ph.D., Dropsie University.

Nathan Goldberg, Professor of Sociology. B.A., M.A., University of Pittsburgh.

Moses Goodstein, Instructor in Arabic. B.S., City College of New York; Ph.D., Yeshiva University.

Hyman B. Grinstein, Professor of American Jewish History. B.S., M.A., Ph.D., Columbia University; Pd.D. (Hon.), Yeshiva University.

Sidney B. Hoenig, Dean Pinkhos Churgin Professor of Jewish History. B.S.S., City College of New York; Ordination, Rabbi Isaac Elchanan Theological Seminary; Ph.D., Dropsie University.

Elazar Hurvitz, Associate Professor of Bible. M.A., Ph.D., Yeshiva University.

Arthur Hyman, Professor of Jewish Philosophy. B.A., St. John's College; M.H.L., Jewish Theological Seminary of America; M.A., Ph.D., Harvard University.

Leo Landman, Assistant Professor of Jewish History. B.A., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary; Ph.D., Dropsie University.

Hayim Leaf, Professor of Hebrew Language and Literature. B.A., D.H.L., Yeshiva University.

Isaac Lewin, Professor of Jewish History. LL.M., University of Lwow; J.S.D., University of Vilna.

Jacob Reiner, Instructor in Jewish History. B.A., M.A., D.H.L., Yeshiva University; M.A., Columbia University; Ordination, Rabbi Isaac Elchanan Theological Seminary.

Haym Soloveitchik, Assistant Professor of History. B.A., Harvard University; M.A., Hebrew University.

Joseph B. Soloveitchik, Professor of Talmud and Jewish Philosophy. Ph.D., University of Berlin.

Leon D. Stitskin, Professor of Jewish Philosophy. B.A., M.A., Hiram College; Ordination, Rabbi Isaac Elchanan Theological Seminary; D.H.L., Yeshiva University.

Abraham Weiss, Professor Emeritus of Talmudic Literature. Ph.D., University of Vienna; D.H.Litt. (Hon.), Yeshiva University.

Yeshiva University

Yeshiva University is a private institution under Jewish auspices chartered by the State of New York; it is accredited by the Middle States Association of Colleges and Secondary Schools and by specialized professional agencies and is a member of the College Entrance Examination Board. The undergraduate colleges and graduate schools of natural sciences, social sciences, and humanities offer programs leading to bachelor's, master's, and doctoral degrees.

In addition to its extensive teaching programs, the University conducts a network of affiliates, community service agencies, and a widespread program of research, and publishes several scholarly journals.

Yeshiva University has evolved from two of this country's oldest yeshivot (schools of traditional Jewish learning): Yeshiva Eitz Chaim, founded in 1886 as an elementary day school offering instruction in Jewish and general studies; and the Rabbi Isaac Elchanan Theological Seminary, organized 10 years later to provide young men with the opportunity for intensive study of the Talmud and named in memory of Rabbi Isaac Elchanan Spektor (1817-1896), noted Rabbi of Kovno, Lithuania.

Under the dynamic leadership of Dr. Bernard Revel, who served as president from 1915 until his death in 1940, opment and growth. The two yeshivot merged under the the institution embarked on a plan of educational develname of the latter. Liberal arts programs began with

the establishment of Yeshiva College in 1928, and the first graduate curriculum—in Semitics—was introduced in 1935.

The election of Dr. Samuel Belkin as president in 1943 inaugurated a new era of expansion. University status was granted two years later by the New York State Board of Regents. The institution initiated programs of professional education, research, and special projects to advance the well-being of many constituencies. In 1954 a college of liberal arts and sciences for women was founded and, in more recent years, graduate schools of science, medicine, social work, and humanities and social sciences.

Centers

The University's four centers are located in Manhattan and the Bronx. The Main, Midtown, and Bronx Centers have dormitory and dining facilities. Each school is so conducted as to assure friendly, informal, and educationally sound relationships between students and faculty. All units thus retain the character and virtues of small institutions.

The Main Center, in Manhattan's Washington Heights, is the hub of the University. It is the site of the following degree-granting schools: Yeshiva College, Erna Michael College of Hebraic Studies, James Striar School of General Jewish Studies, Belfer Graduate School of Science, Bernard Revel Graduate School, Harry Fischel School for Higher Jewish Studies. Most administrative offices and classrooms are located in Sol and Hilda Furst Hall, 500 West 185th Street, opened in 1962. Among the other noteworthy facilities are Leah and Joseph Rubin Residence Hall, 2501 Amsterdam Avenue, with its adjoining Danciger Campus, completed in 1957; Morris and Celia Morgenstern Residence Hall, 2525 Amsterdam Avenue, erected in 1964; and Mendel Gottsman Library, 2520 Amsterdam Avenue, opened in 1969.

Nearing completion is a Science Center for Belfer Graduate School of Science, 184th Street between Amsterdam

Avenue and Laurel Hill Terrace—a $20,000,000 complex to include classrooms, seminar rooms, laboratories, library, computer center, and other major facilities for study and research in physics, mathematics, chemistry, and related fields.

The Midtown Center, at 253 Lexington Avenue (35th Street) in Manhattan's Murray Hill section, houses Stern College for Women and Teachers Institute for Women. The Stern College dormitory is at 50 East 34th Street. A new 11-story classroom-administration building is now under construction.

The Graduate Center, in downtown Manhattan at 55 Fifth Avenue (12th Street), is the home of Ferkauf Graduate School of Humanities and Social Sciences, Wurzweiler School of Social Work, and the University's business and development offices.

The Bronx Center, at Eastchester Road and Morris Park Avenue, in the Westchester Heights section, is the site of the Albert Einstein College of Medicine and Sue Golding Graduate Division of Medical Sciences. Facilities include the Leo Forchheimer Medical Science Building; Mary and Karl Robbins Auditorium; Ullmann Research Center for Health Sciences; the Hospital of the Albert Einstein College of Medicine; and Abraham Mazer Residence Hall. The College's building program has recently been advanced by the addition of the Rose F. Kennedy Center for Research in Mental Retardation and Human Development, and Louis E. and Dora Rousso Community Health Center. Now under construction are the Beulah and Charles C. Bassine Educational Center for Health Sciences, and Evlynne and Max M. Low Residence Hall.

Libraries

University libraries house materials on all branches of the arts and sciences and humanities. A close-knit family, they contain various resources including a wide selection of periodicals and provide exchanges and interlibrary loans. Through its continuing acquisition program the University has obtained many important works. In addition the excellent public and private libraries of New York are available.

The University's library system of some 500,000 volumes is capped by the recently completed Mendel Gottesman Library at the Main Center. This $5,000,000, six-story, block-long structure serves as the central university library, with a capacity of 500,000 volumes and such facilities as study carrels, reading rooms, and seminar rooms. Here are the University Museum, University Archives, and Rare Book and Manuscript Room. In addition, specialized libraries serve the needs of specific schools. Students at the Main Center utilize the Mendel Gottesman Library of Hebraica-Judaica and the Pollack Undergraduate Library, both in the Mendel Gottsman Library, and the Belfer Graduate School of Science Library. Strengthening the programs of schools at other centers are the Graduate Center Library, Siegfried Stern Library at the Midtown Center, and D. Samuel Gottesman Library at Albert Einstein College.

Blueprint for Expansion

On the occasion of its 75th anniversary in 1961, Yeshiva University began the Blueprint for Expansion—a $170,000,000, multiphased expansion program to keep pace with increasing enrollments and broadening research and service commitments at the four centers. Representing the most comprehensive physical and academic development program in its history, the Blueprint has resulted in the construction and acquisition of a number of major units which have significantly increased available classroom, laboratory, and residence facilities. In 1966 the program entered a new, accelerated phase. At three centers $50,000,000 in construction projects are underway. At the Bronx Center a 10-year, $120,000,000 program has been initiated to strengthen and extend medical training, research, and patient care.

Its present programs and plans for the future reflect Yeshiva University's ever-growing concern with America's most pressing needs. For more than eight decades the University has taken a position of leadership in higher

education, serving the community and the nation as a whole.

Bernard Revel Graduate School

Harry Fischel School for Higher Jewish Studies

Bernard Revel Graduate School is an outgrowth of the Graduate Department of Semitics, which was established in 1937. This department was expanded in 1941 and renamed in honor of the late Dr. Bernard Revel, founder of Yeshiva College and president of the Rabbi Isaac Elchanan Theological Seminary from 1915 to 1940.

Bernard Revel Graduate School seeks to develop scholars thoroughly trained in Jewish and cognate learning. It prepares its graduates for positions as specialized teachers in those fields. The School provides opportunities for original research and creative advanced study under the supervision of an outstanding faculty. Emphasis is on critical analysis of basic sources and of select and highly specialized areas of Judaica. By means of select classes, seminars, and individual consultation, the student is guided toward the realization of his full potential as a scholar.

Harry Fischel School for Higher Jewish Studies was established in 1945 with the aid of a generous grant, in perpetuity, from the Harry Fischel Foundation. It offers, during the summer, the program of Bernard Revel Graduate School.

Courses of study at both schools lead to the degrees of Master of Arts and Doctor of Philosophy. (The Ph.D. degree was first conferred in 1958; the only doctoral degree conferred until then was Doctor of Hebrew Literature, which was discontinued in 1970.)

The schools' location at the Main Center affords stimulating association with several of the University's other schools and affiliates, and provides easy accessibility to the major resources of the institution. Opportunities for study and research are afforded by the Mendel Gottesman Library, a central university library building opened in

April 1969. Here are housed the Pollack Undergraduate Library, with a comprehensive collection in the arts and sciences, and the Mendel Gottesman Library of Hebraica-Judaica, one of the world's leading collections of such materials.

Admission: Policies and Procedures

CATEGORIES OF STUDENTS

Congress of study may be pursued under one of the following categories:

Regular Students

Students admitted with permission to work toward degrees are classified as Regular. A Regular student who has been admitted with a warning must achieve an acceptable average to maintain this status. A Regular student admitted with a condition must make up his condition within the time limit set by the Office of Admissions to maintain this status.

Provisional Students

Applicants who meet the quantitative requirements for entrance but not the qualitative requirements may be admitted as Provisional students. If they achieve an acceptable average, they may be reclassified as Regular. However, they are bound by any changes in degree requirements made prior to their attainment of Regular status, and are considered to be on academic probation.

Transient Students

Students who wish to enroll for courses to meet their particular needs without entering a degree program are classified as transient. Normally students in this category may enroll for not more than a total of 9 credits. Incluuded are the following: 1) graduate or undergraduate students in good standing at other colleges or universities who enroll for courses which they will transfer to their home schools; 2) teachers who wish to take

courses for state certification or increment credit; 3) qualified individuals who wish to study subjects in which they are interested.

Visiting Students

Students enrolled with Regular or Provisional status in another school of Yeshiva University may register for a limited number of courses at Bernard Revel Graduate School as Visiting students, with the permission of their home school and the approval of the Faculty Executive Committee of Bernard Revel Graduate School.

Unclassified Students

Applicants whose records are not complete or have not yet been evaluated by the time of registration, but who seem to be qualified on the basis of the records available, may be allowed to register for courses as Unclassified students pending the filing or evaluation of their credentials. This status may be continued for a period not exceeding one semester. Such students enroll at their own risk, and may be dropped at any time if their complete records are not acceptable or are not available.

Special Students

Applicants who give evidence of fitness by reason of maturity and previous training and demonstrate ability to maintain standards of progress, but do not qualify for admission under the categories listed above, may be admitted as Special students. No credit is allowed for work completed under this classification.

There is no category of "auditor." A student admitted under one of the above categories may be permitted to audit a class with the written permission of both the instructor and the Faculty Executive Committee. Such a student does not participate in classwork and is not given examinations; he receives no grade and no record of his auditing is kept, so that no transcript can be issued nor any kind of credit or recognition given.

All students, regardless of their status, must meet all standards and comply with all regulations and requirements.

ADMISSION CRITERIA

Under the admission policy of the University there is no discrimination in regard to sex, religion, age, race, color, or national origin.

Admission is granted to applicants who hold a bachelor's degree or its equivalent from an accredited college or university, and who give promise of meeting the standards set by the School as well as the demands of the particular program to which they apply.

Knowledge of Hebrew language and literature equal to that gained in an undergraduate major and an adequate background in Judaic studies is required. At the discretion of the School and the Office of Admissions, applicants may be required to have an interview and to take an entrance examination.

ADMISSION PROCEDURE

A. A student seeking admission to a degree program must complete the following procedure:

1. Submit the application for admission in duplicate together with the required fee to the Office of Admissions.
2. Arrange for each undergraduate and graduate school he has attended to send two official copies of his transcrip directly to the Office of Admissions.

B. A student desiring to enroll for courses without qualifying for a degree must complete the following procedure:

1. Submit the application for admission together with the required fee to the Office of Admissions.
2. Submit one of the following credentials:
   a) a statement certifying to matriculated status at another institution with permission to take courses at the School.

b) an official statement or transcript certifying the receipt of a bachelor's degree sent directly to the Office of Admissions from the issuing institution.

Deadlines

Records of students applying to degree programs must be complete one month prior to the beginning of classes. The deadline for admission to summer sessions is one month in advance of the first session.

After the above deadline, applicants may be registered as Unclassified students and then reclassified during their first semester of study.

Foreign Students

Foreign students applying for admission to the School are strongly advised to file applications for admission well in advance of the admission deadline in order to insure sufficient time for evaluation. They should have forwarded to the Office of Admissions complete transcripts of previous academic training and a certified translation of each document written in a foreign language.

In addition to all admission requirements, proficiency in English—both verbal and written comprehension and expression—is a prerequisite for study. Applicants whose native language is not English must submit acceptable proof of their proficiency in English before being considered for admission. Normally the student is expected to demonstrate proficiency in English by receiving an acceptable score on the Test of English as a Foreign Language, administered by the Educational Testing Service. This test is given in various locations throughout the world several times a year. Information on the location of testing centers and other pertinent information can be obtained by writing to: Test of English as a Foreign Language, Educational Testing Service, Princeton, New Jersey 08540.

Foreign students may be admitted with an entrance condition in English which must be satisfied by passing

courses in remedial English before their programs of study begin, or (with special permission) during their first year of study.

A brochure, *Foreign Students and Admission to Yeshiva University*, can be obtained by writing to the Office of Admissions.

Regulations

Student Programs

All programs of study must be planned with, and receive the approval of, the student's adviser and the head of the department of the student's major field of interest. In granting approval the adviser will consider especially the student's previous academic record.

Grades

The work of each student is graded on the following basis:

A	Excellent
B	Good
C	Fair (lowest passing grade)
F	Failed
G	Dropped by student (counted as failure)
Inc	Incomplete
M	Missing (no grade reported)
V	(Visitor) Registered for the course, no qualiative grade assigned; attendance credit only
W	Withdrew without penalty
Y	Year course; second term grade applies to both terms (changed to Inc if the student does not register for the second term)

Students must apply for the grade of V on Form T30.1, available in the Office of the Registrar. The deadline for filing for a V grade is the same as the deadline for enter-

ing a new course. The V grade is granted only to students who have attended four fifths of the sessions.

Withdrawal from courses requires the permission of the Faculty Executive Committee and the approval of the Office of the Registrar. Unless this permission is obtained, the student will receive a G, equivalent to failure, in those courses from which he has wihtdrawn. Except under unusual circumstances, withdrawal from a course is not permitted after the course has met five times.

The dates by which students may withdraw without penalty and remove Inc grades are listed in the Academic Calendar. The date listed as the last day to remove an Inc is the day by which the final grade must be recorded by the Office of the Registrar. Students should therefore arrange for examinations, submit reports, papers, etc. sufficiently in advance to permit the instructor to read and evaluate the material and submit the grade by this date.

Students graded Inc who do not complete the required work and have a final grade submitted by the date listed in the Academic Calendar will have the Inc changed to an F, unless permission for an extension is requested by the student on the appropriate form and is granted by the instructor and approved by the Registrar and the Faculty Executive Committee.

Course Requirements

Course requirements include 35 hours per credit of extensive readings and satisfactory completion of oral reports, term papers, and final examinations.

The credit value of each course is given in terms of semester hours. Because of the large amount of outside preparation required for graduate courses, 1 credit is given for courses meeting at least 500 minutes of lecture, recitation, and examinations.

Enrollment and Attendance

Students must attend all meetings of classes in which they are registered. Not more than three absences during a semester are permitted. Excessive absence will result in a grade of G.

Students may not enroll in a course after its third meting.

Academic Average

Each grade has a numerical value, as follows: A=4; B=3; C=2; F, G=0 (V not counted). When the numerical value is multiplied by the credit value of the course, the resulting figure is known as the number of quality points.

The student's average rating is computed by dividing the number of quality points earned by the total number of credits completed, including courses failed. The average is rounded to the third decimal place.

Grades achieved at other schools are not averaged in with a student's record at the Revel and Fischel Schools; only credit is granted on transfer.

Academic Load

A full-time student is one who carries 12 or more credits during a fall or spring semester. Twelve credits is the normal maximum load permitted, but with the permission of the Faculty Executive Committee 15 credits may be taken.

During summer sessions full-time students are permitted to carry 5 credits in each four-week session.

A part-time student is one who carries less than 12 credits during a fall or spring semester or less than 4 credits in a four-week summer session.

Students who work or attend another school may not be full-time students. Such individuals are ordinarily limited to 6 credits during a fall or spring semester and 3 credits during a summer session. In exceptional circum-

tances and with the permission of the Faculty Executive Committee, they may take 9 credits during a fall or spring semester.

Maintenance of Academic Standards

Students are required to maintain satisfactory standards of scholastic performance. Degree candidates must maintain a 3.0 average. A student whose average falls below 3.0 any semester or who receives an excessive number of Incompletes will be placed on academic probation for the following semester. If his average is again below 3.0 or he again receives Incompletes at the end of that semester, he may be dropped from the School.

Leaves of Absence

Students who are unable to return to the School because of military service, illness, or other personal reasons, or who wish to study at other institutions, must request a formal leave of absence on Form M13 if they expect to return at some future time. Students who discontinue their studies without such written approval may be denied readmission.

Three types of leave are available:

1. Leave with maintenance of registration—for students who have not completed their coursework.
2. Leave with maintenance of status—for students who have completed their coursework and are preparing for examinations or writing dissertations.
3. Government service leave of absence—for students entering full-time service in the armed forces, Peace Corps, or Volunteers in Service to America (VISTA). No charge is made for such a leave during the period of actual service.

Sympathetic consideration will be given to a request by a student returning from an official leave who wishes to continue his course of study under the requirements in force at the time he was granted the leave.

Except for the purpose of government service, leaves with maintenance of registration will normally be granted for a maximum of two semesters.

Students must file for leaves of absence by the end of the late registration period of the semester for which the leave is desired. A student who neither registers nor secures an official leave of absence for any semester will be considered as having withdrawn from the School. Such a student who wishes to resume his studies will be required to apply for readmission.

The schedule of fees appears on page 22.

Honorable Dismissal

A student who is withdrawing from the University and does not expect to return at some future date should fill out Form M15 to request an honorable dismissal. (A student who plans to return at some future date should not fill out this form but should instead file a "Request for Leave of Absence," Form M13.) Completion of this form insures that the student's record will bear the notation that an honorable dismissal was granted. The term "honorable dismissal" refers only to character and does not attest to the quality of work done.

Records and Transcripts

A transcript is not issued for a student without his written request, except to another school or to a government agency. In these cases, transcripts are issued upon the request of the school or agency. A transcript is not sent to an employer or prospective employer without the student's permission.

Records of students are sent only in the form of a transcript. No partial records are sent, or ones listing only courses without grades.

A transcript will not be issued for a student who has an overdue debt to the University or has failed to return all books to the Libraries.

A student who wishes to change either his first or last name on School records must file Form M25 in the Office of the Registrar.

Students who believe that there is an error in their academic record (e.g., in a grade, average, credit value, or course description) must promptly call this to the attention of the Office of the Registrar. Even if there has been a mistake on the part of the University, no request for a correction will be entertained unless the student notifies the Office of the Registrar within three months.

Diplomas

Duplicate or revised diplomas can be secured under certain circumstances determined by the standards accepted by American universities. Full information is given on Form G15, available in the Office of the Registrar.

Change of Address

Students who change their home or local residences are required to notify the Office of the Registrar of the change of address within 10 days on Form M29. A student is responsible for all mail sent to his old address if he has not so notified the University.

Time Limitations

A student must complete the requirements for the Master's degree within five years of admission to the School. Requirements for the Doctoral degree must be completed within 10 years of admission.

Transfer of Credit

1. Credit for work completed at another institution of higher education is not automatically granted; both the Faculty Executive Committee and the Office of the Registrar must approve its appropriateness to the degree sought at the School.
2. No credit is given for any course transferred from another institution with a grade below B, nor for any

subject which is technical or commercial, or in any way not ordinarily classified as a liberal arts subject. (Although no credits for C courses may be transferred toward a degree, courses in which C grades were earned may, at the discretion of the Faculty Executive Committee, be used for waiving prerequisites or for meeting content requirements.)

3. All evaluations of work done elsewhere are tentative and subject to re-evaluation on the basis of the student's work at Yeshiva University. Transfer credits may be revoked, either in whole or in part, if subsequent work, either generally or in a particular subject, is not satisfactory.
4. Students admitted to the Master of Arts program may transfer a maximum of 12 credits to meet degree requirements.

   A maximum of 36 credits may be transferred toward the Doctor of Philosophy degree.
5. No credit is allowed for any courses completed more than 10 years before the date of application for advanced standing whether or not the credit was earned toward a formal degree.
6. Students who have taken courses at other graduate institutions and wish to apply for transfer of credit must do so on Form T19.5 during their first semester in attendance. Regulations and procedures are listed on Form T21.5, available from the Office of the Registrar.
7. All official actions concerning transfer of credit are taken by the Registrar after all records are checked and subsequent to written approval by the Faculty Executive Committee.
8. Students already in attendance may take courses at other schools of Yeshiva University only after they have received written permission from the Office of the Registrar. Requests for such permission are to be made on Form P9, available in that office. Such

credits, too, are counted as transfer credits and are subject to all the above regulations.

9. Courses taken through Directed Study are considered as transfer credit. Permission for Directed Study must be obtained from the Faculty Executive Committee and the Office of the Registrar.

Graduation

Commencement exercises are held each June at the close of the academic year. Diplomas are issued thereafter. However, degrees may be awarded at the close of the summer, fall, and spring terms. A student applies for a degree by filing a Graduation Kit during the registration period of the term during which he expects to complete all requirements for the degree. Final dates for filing are listed in the Academic Calendar.

Should the degree not be awarded during that term, a Graduation Kit must be refiled *every term* until the degree is awarded. Graduation fees paid initially remain valid for an additional three consecutive terms and need not be paid again unless more than two years elapse between payment and award of degrees.

Continuation in a Doctoral Program After Receipt of a Master's Degree

A student who receives a Master's degree from the School and wishes to continue in a Doctoral program must file an application in the Office of Admissions during the semester preceding the expected degree. No new application fee is required unless there is a lapse of one or more semesters before the continuation of studies.

Undergraduate Students of Yeshia University

Seniors with acceptable records are permitted to take graduate courses for undergraduate credit at the University's graduate schools. The student must demonstrate that there is no suitable course he can take on the undergraduate level and that the graduate class is a liberal

arts course and one in which the instructor can test and grade undergraduates in accordance with undergraduate regulations. Courses in a major subject may not be taken unless written permission is received from the senior professor of the major.

A student who wishes to register for a graduate course must fill out Form P3.1, available in the Office of the Registrar. It must be approved by the Dean or Director of the undergraduate school and by the instructor of the graduate course and the chairman of the graduate department.

Under exceptional circumstances seniors may take graduate courses for graduate credit, in accordance with the regulations of the graduate schools. Interested students should consult the Office of the Registrar.

Students who have received permission to take graduate courses for undergraduate credit will not be allowed graduate credit for the courses later even if they do not need this credit for their undergraduate degree. Only students who originally requested graduate credit while still undergraduates and paid graduate tuition in addition to undergraduate charges will receive such credit.

Student Responsibility

It is the responsibility of each student to ensure that he has observed all regulations, paid all fees, and met all degree and course requirements, including prerequisites whenever such are required. The degree Graduate should note that completion of the specified number of credits does not in itself satisfy degree requirements.

Academic Discipline

The admission of a student, his continuance on the rolls of the School, the receipt by him of academic credits, his graduation, and the conferring of any degree, diploma, or certificate upon him is entirely subject to the disciplinary powers of the School, which is free to cancel his registration at any time on any grounds which it deems advisable.

Student Information

False or misleading statements on admission, registration, scholarship application, or other School blanks, forms, or records dealing with outside employment, attendance at other institutions, financial status, degree requirements, or any other items of student information requested by the School will result in cancellation of registration.

Student Assignments

A student's signature on any examination, course assignment, or degree requirement is assumed by the School to guarantee that the thoughts and expressions therein not expressly credited to another are literally the student's own. Evidence to the contrary, verified by the Faculty Executive Committee, may result in loss of course credit, dismissal, or such other penalties as shall be deemed proper.

Ethical and Professional Standards in Graduate Study

Graduate study requires excellence of character as much as excellence of intellect. A graduate student is expected to show seriousness of intellectual dedication, respect for the views and convictions of others, concern for the impact of advanced knowledge upon society at large, regard for his instructors, fellow students, and the School as a whole and, above all, adherence to the highest ethical and moral standards in his personal and professional life.

Maintenance of good standing while a student at the School is, in part, dependent upon developing and maintaining standards of ethical and professional conduct.

Messages

The School cannot transmit personal telephone messages to students except in dire emergency. Students should instruct their friends and family not to telephone them at the School.

Injuries

All injuries and accidents to students while engaged in classroom work will be reported by the faculty member in charge of the course. Students are required to report

immediately to the School office any other injury suffered on University premises.

Use of the University's Name

No student may use the name of the University or of Bernard Revel Gradaute School or Harry Fischel School in print for any purpose, including identification, without written permission from the Faculty Executive Committee.

STUDENT FINANCES

Tuition and Fees

Application for Admission (not refundable)	$ 10.00
University Registration Fee (payable at each registration; not refundable)	25.00
Tuition (payable at each registration)	
Bernard Revel and Harry Fischel Schools Per credit	30.00
Late Registration Fee	5.00
Change of Program Fee (covers all changes made at one time)	5.00
Examinations	
a. Comprehensive Examinations	10.00
b. Makeup Examinations	5.00
c. Language Examinations	10.00
Maintenance of Registration or Status (payable each semester)	10.00
Graduation Fee	25.00
Doctoral Publication Fee	100.00
Transcripts of Record, each	1.00

University regulations require the payment in full of all tuition and fees in order to complete registration. Make checks or money orders payable to Yeshiva University. All payments must be made directly to the Office of Student Finances; no one else is authorized by the Uni-

versity to accept payments. All outstanding accounts for previous academic work in any division of the University must be cleared before registration for additional credits can be approved. Students will therefore not be permitted to register until all outstanding balances have been paid.

WITHDRAWAL

The last day to withdraw from a course without academic penalty (although the change of program fee will be charged) is listed in the Academic Calendar. After that date, permission of the Faculty Executive Committee is required. Except under unusual circumstances withdrawal from a course will not be permitted after the course has met one third of the scheduled sessions. Students wishing to withdraw from a course or from the School must file a written request with the Office of the Registrar. Students who withdraw by the specified date are eligible for a refund of 75% of the course tuition paid; registration and other fees are, however, not refundable. Students who withdraw after the specified date are not eligible for a refund.

To receive a refund, the student must submit a written request to the Office of Student Finances. The official date of withdrawal is the day the Office of the Registrar grants permission to withdraw. Students who withdraw without receiving written permission from this office are not eligible for a refund and will receive a G grade, equivalent to failure, in those courses from which they have withdrawn.

FINANCIAL AID

Israel Jacob Brody Fellowship in Talmudic Studies

The University and the family of the late Israel Jacob Brody, literary secretary to Rabbi Isaac Elchanan Spektor, have established a fund to provide fellowship aid to qualified students at Bernard Revel Graduate School.

National Defense Student Loan Program

The National Defense Student Loan Program was authorized by the National Defense Education Act of 1958 Title II, and amended by the Higher Education Act of 1965. The principal aim of this law is "to insure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States." It provides for the establishment of loan funds from which needy undergraduate and graduate students may borrow on reasonable terms for the purpose of completing their higher education.

TERMS OF THE LOAN

1. A student may borrow in one year a sum not exceeding $2,500, and, during his entire course of study, a sum not exceeding $10,000.
2. The borrower must sign a loyalty oath or affirmation as well as a promissory note in which he agrees to the interest and repayment terms established by Yeshiva University and the U.S. Office of Education.
3. Repayment of the loan begins 9 months after the borrower ceases to be at least a half-time student and must be completed within 10 years thereafter, in quarterly payments.
4. No interest accrues prior to the beginning of the repayment schedule; thereafter interest is to be paid at the rate of 3% per year.
5. Payments are deferred and interest does not accrue while the borrower is at least a half-time student in a certified institution of higher education, in the armed forces, or a volunteer in the Peace Corps or VISTA for a period up to three years.
6. In the event of the borrower's death or permanent and total disability, obligation to repay the loan is canceled.
7. In the event the borrower becomes a full-time teacher in a public elementary or secondary school, OR pri-

vate, nonprofit elementary or secondary school, OR institution of higher education, OR school of the armed forces overseas, up to 50% of the loan plus interest may be cancelled. Such cancellation is to be at the rate of 10% a year up to five years.

Beginning with service performed in the 1966-67 academic year, full-time teachers in a depressed area, so designated by the U.S. Commissioner of Education, may request to cancel their loan at the rate of 15% of the unpaid balance of principal for each complete academic year of service for the total amount of their loan.

Beginning with service performed in the 1967-68 academic year, full-time teachers of handicapped children may similarly request to cancel their loan at the rate of 15% of the unpaid balance of principal for each complete academic year of service for the total amount of the loan.

WHO IS ELIGIBLE

Incoming students as well as those currently attending the School may apply if they can satisfy the requirements listed below. Final determination of eligibility is made by Yeshiva University.

1. The applicant must show that the loan is needed to complete his course of study.
2. The applicant must carry at least one half the normal full-time credit load for his degree program as determined by Yeshiva University.
3. The applicant must, in the opinion of the School, be capable of maintaining good academic standing.
4. The applicant must be a United States National. (The term "National" includes not only citizens, but all students in the United States on a permanent resident basis.)

A student is not eligible for a National Defense loan grant for summer session work unless he has been in

half-time attendance during the preceding academic session or plans to be in *half-time* attendance during the following academic period.

Interested students are urged to submit their application at least two months prior to the registration period of any given semester.

New York State Higher Education Assistance Corporation

The Higher Education Assistance Corporation was established by New York State to assist qualified students to meet financial need during their years of undergraduate or graduate study. The program makes possible low cost commercial bank loans with very liberal repayment terms. New York State residents attending the School are eligible for these loans. Students interested in this program are advised to contact the New York State Higher Education Assistance Corporation, 50 Wolf Road, Albany, N.Y. 12205 or Office of Student Finances for application forms and further information.

New York State Scholar Incentive Award Program

New York State residents attending the School on a *full-time* basis are eligible for Scholar Incentive Awards if they maintain satisfactory academic standing. A full-time student is defined as a student who is registered for a minimum of 12 credits per semester or their equivalent. The stipend varies, depending on family income and tuition, from $100 to $600 per year. However, the award cannot exceed the amount by which tuition for the semester (not including fees) exceeds $100. Holders of Regents Scholarships or Fellowships may also receive a Scholar Incentive Award, but it cannot be more than the amount by which tuition for the semester exceeds the scholarship or fellowship.

Applications should be filed with the State before July 1 for each academic year but will be accepted up to December 1. Applications for only the Spring Semester have an April 1 deadline. *Annual* application is required. For

further information and application contact the Regents Examination and Scholarship Center, New York State Education Department, Albany, N.Y. 12224.

Programs and Degree Requirements

Students may work toward the degrees of Master of Arts and Doctor of Philosophy in the following departments:

Bible (Biblical and Cognate Studies)

Hebrew Literature (Modern Texts and Authors)

Jewish History (Ancient, Medieval, and Modern)

Jewish Philosophy (Ancient, Medieval, and Modern)

Talmudic Studies (Talmud, Midrash, Responsa, Codes)

Semitic Languages, Literatures and Cultures (Arabic, Aramaic, Syriac, Akkadian, Ugaritic, Cultures of the Ancient Near East, Middle East Studies)

Programs are planned jointly by the student and the head of his department to assure proper balance together with appropriate breadth and depth. Sponsors are designated to guide Doctoral candidates in their work.

MASTER OF ARTS

Credit Requirement

42 credits, including:

a. 12 credits of basic source courses (those numbered on the 100 level), 6 credits selected from 101-149 and 6 from 151-199.

   A comprehensive examination must be passed in each course.

b. 3 credits of AR 300 Research Seminar.

c. 15 credits in a major field.

A maximum of 6 credits (not used to satisfy items a, b, and c above) may be taken for a V grade (attendance credit only).

Residence Requirement

A minimum of 30 credits must be taken at the School.

Project Requirement

The student must submit a Master's research project demonstrating his ability to collect and organize information and treat his subject in a scholarly fashion.

Administrative Requirements

a. Approbation of the faculty.

b. Filing of an Application for Degree during the registration period of the semester in which the student completes all requirements.

DOCTOR OF PHILOSOPHY

Credit Requirement

90 credits, including:

a. 24 credits of basic source courses (those numbered on the 100 level), 12 credits from 101-149 and 12 from 151-199.

   A comprehensive examination must be passed in each course.

b. 3 credits of AR 300 Research Seminar.

c. 30 credits in a major field.

d. 24 credits, 12 in each of two minor fields.

e. 9 credits in elective courses.

A maximum of 12 credits (not used to satisfy items a, b, and c above), may be taken for a V grade (attendance credit only).

Residence Requirement

A minimum of 54 credits must be taken at the School.

Examination Requirement

a. A student entering the Doctoral program with a master's degree from another school is required to pass a Doctoral qualifying examination by the time he has completed 12 credits at the School.

b. In addition to demonstrating a knowledge of Hebrew, the student is required to pass an examination demonstrating his ability to understand the literature in his major field, in both French and German. Greek or Latin may be substituted for one of these. The use of a dictionary is permitted.

   On the recommendation of the student's sponsor and with the approval of the Faculty Executive Committee, the student may substitute a different language for either French or German.

c. The student must pass an oral comprehensive examination in his major and two minor fields prior to the submission of a dissertation outline.

Dissertation Requirement

The student must prepare and defend a satisfactory dissertation based on original research.

Administrative Requirements

a. Approbation of the faculty.

b. Filing of an Application for Degree during the registration period of the semester in which the student completes all requirements.

APPENDIX

Volume IV (Exhibits), pp. 1147-1472

Supreme Court, U. S.
FILED
JUN 5 1979
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

—*v.*—

YESHIVA UNIVERSITY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI IN NO. 78-857 FILED NOVEMBER 27, 1978

PETITION FOR CERTIORARI IN NO. 78-997 FILED DECEMBER 19, 1978

CERTIORARI GRANTED FEBRUARY 21, 1979

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

—*v.*—

YESHIVA UNIVERSITY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

INDEX

	Page
Employer's Exhibits:	
1	773
2	789
3	797
4	802
7 (p. 3)	804
10	806
13	825
15	827
16	831
17	833
18	835
19	837
20	839
21	841
22A (pp. 1-42, 66-75, 84-88, 92-98, 116-120, and 125)	843
22B (pp. 1, 8-24, 26-27, 30-34, 38-39)	966

Page

Employer's Exhibits—Continued

22C (pp. 1, 8-46, 53-59, 65, 69-71, 83-84, and 89-91) 1005
22D (pp. 1, 8-33) 1080
22E (pp. 1, 8-26) 1117
28 1147
30 1160
31 1161
32 1162
33 1163
34 1164
35 1165
36 1166
37 1167
38 1168
39 1169
40 1170
48 1171
49 1175
50 1177
51 (through p. 15, pp. 16-19, 20, 21 and 22) 1179
52 1211
53 1213
54 1219
55 1220
56 1234
58 1242
59 1244
60 1246
61 1247
63a (pp. 1-4) 1261
65 (pp. 1-4) 1269
78 1275
79 1277
100 1282
101 1284

Page

Employer's Exhibits—Continued

102 1287
103 1292
104 1295
105 1300
106 1302
107 1304
108 1305
109 1307
110 1315
111 1322
112 1327
113 1335
114 1337
115 1338
116 1340
117 1341
118 1342
119 1343
120 1345
121 1346
122 1351
123 1355
124 1356
125 1357
126 1358
127 1362
131 1364
135 1371
136 (pp. 6-12, 16-27) 1373
137 1399
138 1401
139 1411
140 1412
141 1414

Page

Employer's Exhibits—Continued

143 1415
144 1417
145 1419
149 1423
150 1425

Petitioner's Exhibits:

6 (in its entirety) 1427
12A 1443
12B 1447
16 1449
17 1450
18 1464
105 1455
106 1456
107 (pp. 1-2) 1457
108 1459
109 1460
111 1461
112 1463
113 1466
116 1468
117 1469
118 1471

EMPLOYER'S EXHIBIT NO. 28

UNDERGRADUATE FACULTIES

Helmut E. Adler, Professor of Psychology. B.A., M.A., Ph.D., Columbia University. *Y. College*

Irving A. Agus, Professor of Jewish History. B.S., New York University; Ph.D., Dropsie University. *Y. College*

Yakir Aharonov*, Professor of Physics. B.S., Technion; Ph.D., Bristol University. *Belfer*

Murray Altman, Instructor in Biology. B.A., M.S., New York University. *Stern*

Gersion Appel, Professor of Jewish Philosophy. B.A., D.H.L., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary; Ph.D., Harvard University. *Stern*

Carl Auerbach, Assistant Professor of Psychology. B.A., Reed College; Ph.D., University of Pennsylvania. *Ferkauf*

Isaac Bacon, Professor of Linguistics. Ph.D., Masaryk University. *Y. College*

Ralph E. Behrends, Professor of Physics. B.S., U.S. Naval Academy; M.A., Ph.D., University of California at Los Angeles. *Belfer*

Charles A. Berger, Associate Professor of Mathematics. B.Eng., Ph.D., Cornell University. *Belfer*

Melvyn S. Berger, Associate Professor of Mathematics. B.A., University of Toronto; M.S., Ph.D., Yale University. *Belfer*

Abraham Berman, Instructor in Bible. B.A., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Striar*

Saul Berman, Assistant Professor of Judaic Studies. B.A., M.H.L., Yeshiva University; M.A., University of

* On leave 1973-74.

California at Berkeley; Ordination, Rabbi Isaac Elchanan Theological Seminary; J.D., New York University. *Stern*

Samuel J. Bernstein, Associate Professor of Political Science. B.A., Brooklyn College; M.A., Ph.D., University of Pennsylvania. *Stern*

Morris J. Besdin, Instructor in Bible. B.A., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Striar*

Anthony S. Beukas, Instructor in Speech. B.A., University of Iowa; M.F.A., Yale University. *Y. College*

Ruth Bevan*, Assistant Professor of Political Science. B.A., Grinnell College; M.A., University of Massachusetts; Ph.D., New York University. *Y. College*

Isabella A. Bick, Assistant Professor of Sociology. B.A., Bernard College; M.A., Columbia University. *Stern*

Samuel Blackman, Associate Professor of Chemistry. B.A., Cornell University; M.S., New York University; Ph.D., Polytechnic Institute of Brooklyn. *Y. College*

Benjamin Blech, Instructor in Talmud. B.A., Yeshiva University; M.A., Columbia University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Striar*

Moshe Carmilly, Professor of Jewish Studies. Diploma, Jewish Theological Seminary, Budapest; Ph.D., Pazmany Peter University. *Michael*

Zevulun Charlop, Lecturer in History. B.A., Yeshiva University; M.A., Columbia University. *Riets (affiliate)*

Maurice E. Chernowitz, Professor of Fine Arts. B.A., City College of New York; M.A., Ph.D., Columbia University. *Y. College*

Gershon A. Churgin*, Porfessor of Hebrew. B.A., M.A., Columbia University; Ph.D., Johns Hopkins University. *Y. College*

Lewis A. Coburn, Professor of Mathematics. B.S., M.S., Ph.D., University of Michigan. *Belfer*

* On leave 1973-74.

Paul Connolly, Assistant Professor of English. B.A., University of Toronto; M.A., Ph.D., University of Virginia. *Y. College*

Frederick Cooper, Assistant Professor of Physics. B.S., City College of New York; Ph.D., Harvard University. *Belfer*

Lucy S. Dawidowicz, Associate Professor of Social History. B.A., Hunter College; M.A., Columbia University. *Stern*

Ida Dobkin, Instructor in Chemistry. B.A., Hunter College; M.S., New York University. *Y. College*

Hanoch Dubitsky, Instructor in Hebrew. B.A., Hebrew University. *Stern*

Joseph Dunner, David W. Petegorsky Professor of Political Science. M.A., Johann Wolfgang Goethe University; Ph.D., University of Basel. *Y. College*

Leon Ehrenpreis, Professor of Mathematics. B.S., City College of New York; M.A., Ph.D., Columbia University. *Belfer*

Shlomo Eidelberg, Professor of Jewish History. M.A., Hebrew University; D.H.L., Yeshiva University; Ph.D., Dropsie University. *Stern*

Sasha Englard, Professor of Biochemistry. B.S., City College of New York; Ph.D., Case Western Reserve University. *Cinstein*

Baruch N. Faivelson, Instructor in Hebrew. Hebrew Teacher's Diploma, B.A., Yeshiva University; M.A., Columbia University; Ordination, Rabbinical College of Mir. *W. Teachers*

Jacob Feinstein, Associate Professor of Hebrew. B.A., D.H.L., Yeshiva University. *Stern*

Meyer S. Feldblum, Professor of Talmudic Literature. B.A., Ph.D., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Revel*

Louis H. Feldman, Professor of Classics. B.A., M.A., Trinity College; Ph.D., Harvard University. *Y. College*

David Finkelstein, Young Men's Philanthropic League Professor of Physics. B.S., City College of New York; Ph.D., Massachusetts Institute of Technology. *Belfer*

Leopold Flatto, Professor of Mathematics. B.S., City College of New York; M.A., Johns Hopkins University; Ph.D., Massachusetts Institute of Technology. *Belfer*

David Fleisher, Abraham Wouk Family Professor of English. B.S., New York University; M.A., Ph.D., Harvard University. *Y. College*

Beatrice L. Friedland, Professor of Biology. B.A., M.A., Ph.D., New York University. *Stern*

Jonathan I. Ginsberg, Assistant Professor of Mathematics. B.A., M.A., Ph.D., Yeshiva University. *Y. College*

Robert L. Goldberg, Assistant Professor of History. B.A., Harvard University; M.S., London School of Economics; Ph.D., Columbia University. *Y. College*

June Golden, Instructor in Speech. B.A., Queens College; M.A., Columbia University. *Stern*

Doris S. Goldstein, Professor of History. B.A., Queens College; M.A., Smith College; Ph.D., Bryn Mawr College. *Stern*

Martin Goldstein, Professor of Chemistry. B.S., City College of New York; Ph.D., Columbia University. *Belfer*

Fred Goodman, Professor of Biology. B.A., M.A., Brooklyn College; Ph.D., Columbia University. *Stern*

Martin Gordon, Instructor in Judaic Studies. B.A., M.H.L., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Stern*

Jessica Grant, Instructor in Biology. B.A., Yeshiva University; M.A., Ph.D., New York University. *Stern*

Joseph Greenblum, Instructor in Sociology and Social Psychology. B.S.S., City College of New York; M.S., University of Wisconsin; M.P.H., Columbia University. *Y. College*

Lawrence Grossman, Assistant Professor of History. B.A., M.H.L., Yeshiva University; M.A., Columbia University; Ph.D., City University of New York. *Stern*

Chaim B. Gulevsky, Instructor in Talmud. Ordination. *Michael*

Joan Haahr, Assistant Professor of English. B.A., Harpur College; M.A., Ph.D., Harvard University. *Y. College*

Laurel Hatvary, Instructor in English. B.A., M.A., New York University. *Stern*

Meir Havazelet, Professor of Bible. M.A., Hebrew University; D.H.L., Jewish Theological Seminary of America; Ph.D., Yeshiva University. *Stern*

Michael Hecht, Assistant Professor of Political Science. B.A., M.H.L., Yeshiva University; J.D., New York University.

Aaron Hershkowitz, Associate Professor of Psychology. B.A., Brooklyn College; M.A., New School for Social Research; Ph.D., University of Kansas. *Ferkauf*

Mayer Herskovics, Professor of Jewish Studies. M.A., Pazmany Peter University. *Michael*

Elazar Hurvitz, Associate Professor of Bible. M.A., Ph.D., Yeshiva University. *Revel*

Arthur Hyman, University Professor of Philosophy. B.A., St. John's College; M.H.L., Jewish Theological Seminary of America; M.A., Ph.D., Harvard University. *Revel*

David Kadosh, Assistant Professor of Jewish Philosophy. Ordination; Ph.D., Yeshiva University. *Michael*

Henri Kamri, Instructor in Hebraic Studies. M.S., Yeshiva University; Ordination, Yeshiva Hayishuv Hehadash, Israel. *Stern*

Michael Katz, Associate Professor of Bible. B.A., D.H.L., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Reits (affiliate)*

Laurel Keating, Assistant Professor of Speech. B.A., University of California at Los Angeles; M.A., Ph.D., Syracuse University. *Y. College*

Nancy C. Knopka, Instructor in Spanish. B.A., Barnard College; M.A., Columbia University. *Stern*

Thomas Knudsen, Instructor in German. B.A., M.A., Columbia University. *Y. College*

Shelly P. Koenigsberg, Associate Professor of Education. B.A., Hunter College; M.A., Harvard University; Ed.D., Columbia University. *Stern*

Hadassah Kosak, Instructor in Hebrew. B.A., Hebrew University. *Stern*

Pauline Kra, Assistant Professor of French. B.A., Barnard College; M.A., Ph.D., Columbia University. *Y. College*

Anna F. Krakowski, Professor of French and Hebraic Studies. Doctorate, University of Paris. *Stern*

Aron Kreiser, Instructor in Talmud. Ordination. *Michael*

Simeon J. Krumbein, Associate Professor of Chemistry. B.S., Brooklyn College; Ph.D., New York University. *Stern*

Seymour Lainoff, Professor of English. B.A., Brooklyn College; M.A., Columbia University; Ph.D., New York University. *Y. College*

Leon F. Landovitz, Professor of Physics. B.A., Ph.D., Columbia University. *Belfer*

Shirley Lauro, Instructor in Speech. B.S., Northwestern University; M.S., University of Wisconsin. *Y. College*

Hayin Leaf, Professor of Hebrew. Hebrew Teacher's Diploma, B.A., D.H.L., Yeshiva University. *Revel*

Arnold Lebow, Associate Professor of Mathematics. B.S., M.A., Wayne State University; Ph.D., University of Michigan. *Belfer*

Joel L. Lebowitz, Professor of Physics. B.S., Brooklyn College; M.S., Ph.D., Syracuse University. *Belfer*

Esther M. Lentschner, Assistant Professor of Social Work. B.A., M.A., Radcliffe College; M.S.S.A., Case Western Reserve University. *Wurzweiler*

Joseph L. Lerner, Instructor in Talmud. Ordination. *Michael*

Aaron Levine, Assistant Professor of Economics. B.A., Brooklyn College; M.A., Ph.D., New York University. *Y. College*

Eli M. Levine, Professor of Chemistry. B.A., Yeshiva University; M.A., Columbia University; Ph.D., Polytechnic Institute of Brooklyn. *Y. College*

Edward Levy*, Assistant Professor of Music. B.A., City College of New York; M.F.A., Princeton University; Ed.D., Columbia University. *Y. College*

Ezra Levy, Associate Professor of Chemistry. M.S., Ph.D., Hebrew University. *Y. College*

Irving Linn, Professor of English. B.B.A., City College of New York; M.A., Ph.D., New York University. *Y. College*

Max Lipsicas, Professor of Chemistry. B.S., London University; Ph.D., University of British Columbia. *Belfer*

Henry Lisman, Professor of Mathematics. B.S., M.A., Ph.D., Boston University. *Y. College*

Susan C. Maizel, Instructor in Sociology. B.A., Queens College; M.A., University of Pennsylvania. *Y. College*

Albert Marrin, Assistant Professor of History. B.A., City College of New York; M.S., Yeshiva University; M.A., Ph.D., Columbia University. *Y. College*

---

* On leave 1973-74.

Alter B. Metzger, Associate Professor of Judaic Studies. B.A., M.S., Yeshiva University; M.A., Ed.D., Columbia University; Ordination Rabbi Isaac Elchanan Theological Seminary. *Stern*

David Mirsky, Professor of English. B.A., Yeshiva University; M.A., Columbia University. *Stern*

Donald J. Newman, Professor of Mathematics. B.A., New York University; Ph.D., Harvard University. *Belfer*

Macy Nulman, Instructor in Jewish Music. B.A., Yeshiva University. *Cantorial Institute*

J. Mitchell Orlian*, Assistant Professor of Bible. B.R.E., B.A., M.S., Ph.D., Yeshiva University; Ordination, Hebron Yeshiva, Israel. *Michael*

Philip S. Paretzky, Instructor in Hebrew. M.A., Columbia University; Ordination, Rabbi Isaac Elchanan Theological Seminary; J.D., Fordham University. *Riets (affiliate)*

Marcel I. Perlman, Associate Professor of Psychology. B.A., M.S., Ph.D., Yeshiva University. *Stern*

Sidney Pleskin, Professor of Education. B.A., Yeshiva University; M.A., Ed.D., Columbia University. *Y. College*

Perez Posen, Assistant Professor of Physics. B.A.Sc., University of Toronto; M.A., New York University. *Y. College*

Robert B. Putz, Jekuthiel Ginsburg Instructor in Mathematics. B.A., Brooklyn College; Ph.D., Washington University. *Belfer*

Jacob M. Rabinowitz, Associate Professor of Talmud. B.A., Yeshiva University; M.S., Polytechnic Institute of Brooklyn; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Michael*

---

* On leave 1973-74.

Paul M. Raccah, Associate Professor of Physics. National Engineering Degree, University of Lyon; Ph.D., University of Rennes. *Belfer*

Moshe A. Reguer, Associate Professor of Jewish Studies. Hebrew Teacher's Diploma, B.A., D.H.L., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Y. College*

Nathaniel L. Remes, Associate Professor of Chemistry. B.A., Amherst College; M.A., Ph.D., University of Connecticut. *Stern*

Ellen Robinson, Associate Professor of Psychology. B.A., M.A., Brooklyn College; Ph.D., Northwestern University. *Stern*

Noah H. Rosenbloom, Professor of Hebraic Studies. B.R.E., D.H.L., Yeshiva University; M.A., Columbia University; Ordination, Rabbi Isaac Elchanan Theological Seminary; Ph.D., New York University. *Stern*

Betty Rosoff, Associate Professor of Biology. B.A., M.A., Hunter College; Ph.D., City University of New York. *Stern*

Yitzchak Sabban, Instructor in Hebrew. M.A., Hebrew University. *Michael*

Susan Sardy, Assistant Professor of Education. B.A., Brooklyn College; M.S., Ed.D., Yeshiva University. *Stern*

Stanley A. Sawyer, Associate Professor of Mathematics. B.S., Ph.D., California Institute of Technology. *Belfer*

Samuel Schneider, Instructor in Hebrew. B.A., Hebrew University; M.A., Yeshiva University. *Y. College*

Peninnah Schram, Instructor in Speech. B.A., University of Connecticut; M.A., Columbia University. *Stern*

Doris Shores, Assistant Professor of English. B.A., Ph.D., New York University; M.A., Columbia University. *Stern*

Asher Siev, Professor of Hebrew. Hebrew Teacher's Diploma, B.A., M.H.L., D.H.L., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Y. College*

Carol Silver, Assistant Professor of English. B.A., Alfred University; M.A., University of Michigan; Ph.D., Columbia University. *Stern*

Morris Silverman, Professor of History. B.R.E., B.A., M.S., Yeshiva University; M.A., Brooklyn College. *Y. College*

Constance Skor, Instructor in Education. B.A., New York University; M.S., Yeshiva University. *Stern*

William Spindel, Professor of Chemistry. B.A., Brooklyn College; M.A., Ph.D., Columbia University. *Belfer*

Abraham Stern, Asssociate Professor of Education. Hebrew Teacher's Diploma, B.A., M.S., Yeshiva University; Ph.D., New York University. *Michael*

Rudolf Stern, Instructor in Biology. B.S., University of Vienna Medical School. *Y. College*

Manny Sternlicht*, Professor of Psychology. B.A., M.A., City College of New York; Ph.D., Yeshiva University. *Y. College*

Abraham Tauber, Professor of Speech. B.S.S., City College of New York; M.A., Ph.D., Columbia University. *Y. College*

Leo Taubes, Instructor in English. B.A., Yeshiva University; M.A., Columbia University. *Y. College*

Moses D. Tendler, Professor of Biology. B.A., M.A., New York University; Ph.D., Columbia University. *Y College*

Rafael Victor, Instructor in Mathematics. B.S., City College of New York; M.S., New York University. *Stern*

Dan Vogel *, Professor of English. B.A., Brooklyn College; M.A., Rutgers University; Ph.D., New York University. *Stern*

* On leave 1973-1974.

Jonathan M. Wachtel, Assistant Professor of Physics. B.S., Massachusetts Institute of Technology; M.S., Ph.D., Yale University. *Belfer*

Manfred Weidhorn, Professor of English. B.A., Ph.D., Columbia University; M.A., University of Wisconsin. *Y. College*

Mordecai I. Willig, Instructor in Talmud. B.A., M.H.L., Yeshiva University; Ordination, Rabbi Isaac Elchanan Theological Seminary. *Riets*

Saul Wischnitzer, Professor of Biology. B.A., Yeshiva University; M.S., Ph.D., University of Notre Dame. *Y. College*

Pinchas Wollman-Tsamir, Instructor in Hebrew. Cand. Phil., Goethe University. *Michael*

Arthur E. Woodruff, Associate Professor of Science Education. B.S., M.S., Yale University; Ph.D., University of Rochester. *Belfer*

OTHER ADMINISTRATORS

Joshua Cheifetz, M.S.S. .....Director, Residence Halls, Main Center

Dorothy R. Colodner, M.S. .....Assistant Registrar, Midtown Center

Linda A. Derovan, B.A. ....Assistant to the Director of Admissions

Meyer H. Edelstein, M.H.L. ..Senior Assistant Registrar

Herbert Falk, B.A. .....Director of Publicity

Samuel J. Gayer, B.A. ....Assistant to the Director of Admissions

Phyllis Gordon, B.A. .....Assistant to the Director of Public Relations

Reuben Heisler, B.A. ....Director, Production Services

Alexander Hoffer, M.D. .....Consultant Psychiatrist

Bert Jacobson, B.A. .....Director, Graphic Arts Office

Edith Lubetsky, M.A. .....Librarian, Midtown Center Library

Miriam R. Mostow .....Recorder, Midtown Center

Vivian Owgang .....Administrative Assistant, Student Affairs

Theodore Redlich, B.A. .....Editor (Catalogs), Graphic Arts Office

Eli Sar, M.D. .....Director, Medical Office

Helene Siegel, B.A. .....Assistant to the Director of the Graphic Arts Office

Norman B. Twersky, M.A. .....Associate Director of Student Finances

David Weinhouse .....University Photographer

Yeshiva College

Saul Wischnitzer, Ph.D. ...Assistant Dean and Adviser to Pre-Medical and Pre-Dental Students

Michael Hecht, J.D. .....Adviser to Pre-Law Students

Perez Posen, M.A. ..Adviser to Pre-Engineering Students

Louis H. Feldman, Ph.D. .....Director of Examinations

Paul Connolly, Ph.D. ....Executive Secretary, Scholastic Standing Committees

Jay Marcus, M.A. .....Director of Guidance and Career Counseling

Menachem M. Brayer, Ph.D. ....Consultant Psychologist

Bernard Sarachek .....Director of Athletics

Neil Ellman, B.A. .....Wrestling Coach

Jonathan Halpert, M.A. .....Basketball Coach

Arthur D. Tauber, B.A. .....Fencing Coach

Leonard Brandwein, B.S. .....Electronics Laboratory Technician

Joseph Levovitz ....In Charge of Chemistry Laboratory

Alice Epstein ....Administrative Secretary to the Dean

Erna Michael College

J. Mitchell Orlian, Ph.D. .....Director of Examinations

Mayer Herskovics, D.H.L. .....Guidance Counselor

Pesach Oratz, B.A. .....Guidance Counselor

Sarah M. Bass .....Administrative Secretary

James Striar School

Frances Streich .....Administrative Secretary

Yeshiva Program

Moses L. Solow, B.A. .....Assistant to the Director

Molly Sheinman .....Executive Secretary

Stern College

Esther Reich, M.S. .....Assistant to the Dean

Simeon J. Krumbein, Ph.D. ...Director of Examinations

Shellee Berman, M.S.W. .....Guidance Counselor

Shirley Shimoff, B.A. .....Student Services Counselor

Louis Finkelman, B.A. ..Acting Director, Residence Hall

Esther S. Zuroff, B.A. .....Placement Coordinator

Ida Malamud, M.L.S. .....Assistant Librarian

Libby Neiman, M.L.S. .....Assistant Librarian

James Martin .....Laboratory Assistant

Livia Turkel .....Secretary

Teachers Institute

Esther Rubin .....Secretary

NOTE: The above is an abbreviated listing of those administrators that undergraduates consult most frequently.

EMPLOYER'S EXHIBIT No. 30

SUBCOMMITTEE ON BA/MA JEWISH STUDIES

I. Agus (Y. College)
A. Hyman (Y. College)
M. Feldblum (Revel)
S. Hoenig (Revel)
E. Hurvitz (Revel)
H. Leaf (Revel)

EMPLOYER'S EXHIBIT No. 31

SUBCOMMITTEE ON BA/MA—CHEMISTRY

S. Blackman (Y. College)
I. Dobkin (Y. College)
E. Levine (Y. College)
E. Levy (Y. College)
I. Borowitz (Belfer)
M. Goldstein (Belfer)
M. Pomerantz (Belfer)
W. Spindel (Belfer)

EMPLOYER'S EXHIBIT NO. 32

SUBCOMMITTEE ON BA/MA—PHYSICS

R. Behrends (Belfer)
F. Cooper (Belfer)
G. Frye (Belfer)
L. Landovitz (Belfer)
J. Lebowitz (Belfer)
P. Posen (Y. College)
J. Wachtel (Belfer)

EMPLOYER'S EXHIBIT NO. 33

SUBCOMMITTEE ON BA/MA—MATHEMATICS

C. Berger (Belfer)
L. Coburn (Belfer)
J. Ginsberg (Y. College)
A. Koranyi (Belfer)
H. Lisman (Y. College)
C. Patt (Belfer)

EMPLOYER'S EXHIBIT No. 34

SUBCOMMITTEE ON BA/MA—PSYCHOLOGY

H. Adler (Y. College)
M. Anisfeld (Ferkauf)
A. Atkins (Ferkauf)
N. Gordon (Ferkauf)
B. Harris (Ferkauf) Chairman
N. Perlman (Stern)
E. Robinson (Stern)
B. Weiner (Ferkauf)
L. Zach (Ferkauf)

EMPLOYER'S EXHIBIT No. 35

SUBCOMMITTEE ON BA/MS—SOCIAL WORK

S. M. Goldstein (Wurzweiler)
S. Green (Wurzweiler)
E. Lentschner (Wurzweiler)
A. Stern (Michael)
J. Rabinowitz (Michael)

EMPLOYER'S EXHIBIT No. 36

UNIVERSITY COMMITTEE ON JOINT PROGRAMS

I. Bacon Y. College (Chairman)
J. Gittler (Wurzweiler)
S. Hoenig (Revel)
E. Jaffe (Einstein)
A. Komar (Belfer)
D. Mirsky (Stern)
W. Rosenthal (Wurzweiler)

EMPLOYER'S EXHIBIT No. 37

COMMITTEE ON GRANTS

M. Anisfeld (Ferkauf)
J. Bernstein (Stern)
A. Duker (Librarian)
H. Goldstein (Ferkauf)
S. Green (Wurzweiler)
S. Hofstein (Wurzweiler)
A. Komar (Belfer)
J. Levin (Revel)
M. Lipsicus (Belfer)
J. G. Sachs (Wurzweiler)
S. Schutz (University Counsel)
S. Socol (V.P. for Business Affairs)
A. Tauber (Y. College)

EMPLOYER'S EXHIBIT No. 38

UNIVERSITY WIDE ACADEMIC COMPUTER COMMITTEE

P. Aisen (Einstein)
C. Auerbach (Ferkauf)
I. Bacon (Yeshiva College)
A. Beckerman (Wurzweiler)
S. Bernstein (Stern)
E. Genn (Einstein)
J. Gittler (Ferkauf)
N. Gutfeld (Einstein)
S. Hoenig (Revel)
E. Jaffe (Einstein)
A. Komar (Belfer)
L. Landovitz (Belfer)
B. Lehrer (Ferkauf)
J. Lindenthal (Revel)
D. Mirsky (Stern)
A. Myers
W. Rosenthal (Wurzweiler)
J. Sachs (Wurzweiler)
G. Schimoler (Ferkauf)
S. Socol (Vice President for Business Affairs)

EMPLOYER'S EXHIBIT No. 39

UNIVERSITY LIBRARY COMMITTEE

Dr. I. Bacon (Chairman) Yeshiva College
Dr. M. Carmilly (Michael)
Dr. H. Feiner (Wurzweiler)
Dr. E. Hurvitz (Revel)
Dr. L. Landovitz (Belfer)
Dr. B. Levinson (Ferkauf)
Dr. S. Sardy (Stern)

EMPLOYER'S EXHIBIT No. 40

UNIVERSITY-WIDE COMMITTEE ON
CEREMONIAL OCCASIONS

SCW—	Dr. Beatrice L. Friedland
SCW—	Mrs. Shellee Berman
SCW—	Dr. Simeon J. Krumbein
SCW—	Mrs. Shirley Shimoff
TIW—	Dr. Sampson A. Isseroff
FGS—	Dr. Bluma B. Weiner
EMC—	Dr. Moshe Carmilly
YC—	Dr. Asher Siev
YC—	Dr. Abraham Tauber
YC—	Dr. Irving Linn
YC—	Dr. Henry Lisman
BGSS—	Dr. Charles R. Patt
BRGS—	Dr. Leon D. Sittskin
WSSW—	Dr. Aaron Beckerman
WSSW—	Dr. Joel Sacks

EMPLOYER'S EXHIBIT No. 48

MEMBERSHIP LIST — J. B. GITTLER
1973-74

ACADEMIC COUNCIL
OF THE GRADUATE SCHOOL
YESHIVA UNIVERSITY

AECOM — Dean Ernst Jaffé

FACULTY: Dr. William Metcalf
Jacobi Hospital, Rm. 610
Bronx, N.Y. 10461

(also Sue Golding rep.)

Dr. Edward J. Hehre
Dept. of Microbiology & Immunology

STUDENTS: Mr. Steven Ulano
1530 St. Nicholas Ave., #32
New York, N.Y.

Mr. Jay Poupko
1545 Rhinelander Ave.
Bronx, N.Y. 10461

BGSS — Dean Arthur Komar

FACULTY: Dr. Lewis A. Coburn

Dr. Miriam S. Grosof

STUDENTS: Ms. Gail Wolf
515 West 183 St.
New York, N.Y. 10033

Mr. Arthur Goodman
2925 Mathews Ave.
Bronx, N.Y. 10467

BRGS Dean Sidney B. Hoenig

FACULTY: Dr. Meyer S. Feldblum
515 West 183 Street
New York, N.Y. 10033

Dr. Arthur Hyman
845 West End Ave.
New York, N.Y. 10025

STUDENTS: Rabbi Jonathan Helfand
110 Bennett Ave.
New York, N.Y. 10033

Mr. Moshe Sokolow
1619 54 St.
Brokolyn, N.Y. 11204.

FGS Dean Joseph B. Gittler

FACULTY: Dr. Ruth Lesser
Dept. of Psychology

Dr. Adelaide Jablonsky
Dept. of Curriculum & Instruction

STUDENTS: Ms. Marjorie Goldstein
85 Fourth Ave.
New York, N.Y. 10003

Mr. Arnold Grant
721 Columbus Ave.
New York, N.Y.

SGGD Dr. Jonathan Warner, Director

FACULTY: Dr. Jack Peisach
Dept. of Pharmacology
AECOM

(also AECOM rep.)

Dr. Edward J. Hehre
Dept. of Microbiology & Immunology

STUDENTS: Mr. Eli Ohrbach
Dept. of Pharmacology
Mr. John Loike
Dept. of Pharmacology

WSSW Dean William Rosenthal

FACULTY: Prof. Esther Lentschner

Prof. Harriet Feiner

STUDENTS: Mr. Martin Knecht
1814 East 2nd St.
Brooklyn, N.Y. 11223

Mr. Abraham Friedman
309 W. 99 St.
New York, N.Y. 10025

UNIVERSITY ADMINISTRATION

President Samuel Belkin

Dr. Joshua A. Fishman

Dr. Marcus Kogel

Dr. Israel Miller

Rabbi Israel Mowshowitz
Hillcrest Jewish Center
183-02 Union Turnpike
Flushing, N.Y. 11366

Prof. Morris Silverman

Rabbi Abner Groff

Dr. Shelton Socol

Mr. Peretz Tishby

Mr. Sam Hartstein

Mr. Jack Nussbaum

Rabbi Zevulun Charlop
RIETS

Mr. Abraham Zeitz
55 Fifth Ave.

Mr. Sidney Schutz
55 Fifth Ave.

EMPLOYER'S EXHIBIT No. 49

This is the list of the Undergraduate Council as given to me by the 1973-74 Secretary:

Dean Issac Bacon—Dean YC

Rabbi Saul Berman—SCW (Chairman)

Rabbi Morris Besdin—Director JSS

Abraham Blank—YCSC (Secretary)

Michael Bloom—JSS

Rabbi Zevulun Charlop—Director RIETS

Joseph Epstein—Hamevasser

Rabbi Baruch Faivelson—Director TIW

Dr. Joshua Fishman—Vice President Academic Affairs

Anita Gittelman—Editor Observer

Tova Glassman—SCW

Rabbi Abner H. Groff—Director of Admissions

Irwin Gross, President SOY

Judah Lifshitz—YCSC

Dr. Israel Miller—Vice President Student Affairs

Dean David Mirsky—Dean SCW

Jack Nussbaum—Director of Student Finances

Harry Peters—SOY

Dean Jacob Rabinowitz—Dean EMC

Elizabeth Reisman—TIW

Irving Rotter—SOY

Manny Ruchelsman—President YCSC

Victor Sasson—EMC

Sherry Scheinberg—SCW

Dr. Doris Shores—SCW Faculty

Dr. Asher Seiv—YC Faculty

Professor Morris Silverman—Registrar

Dr. Sheldon Socol—Vice President Business Affairs

Jeanette Stobezki—SWC

David Teman—EMC

Dr. Moses Tendler—YC Faculty

Norman Blumenthal—Editor Commentator

EMPLOYER'S EXHIBIT No. 50

YESHIVA UNIVERSITY
MEMBERS OF THE EXECUTIVE COUNCIL
1973-1974

Dr. Samuel Belkin, President

Dr. Issac Bacon, Dean, Yeshiva College

Rabbi Morris Besdin, Director, James Striar School

Rabbi Zevulun Charlop, Director, Rabbi Issac Elchanan Theological Seminary (Affiliate)

Rabbi Herbert Dobrinsky, Executive Assistant to the President

Rabbi Baruch Faivelson, Director, Teachers Institute for Women

Rabbi Morris Finer, Director, Community Services Division, Rabbi Isaac Elchanan Theological Seminary

Dr. Joshua Fishman, Vice-President for Academic Affairs

Dr. Joseph Gittler, Dean, Ferkauf Graduate School

Rabbi Abner Groff, Director of Admissions

Mr. Sam Hartstein, Director of Public Relations

Dr. Sidney Hoenig, Dean, Bernard Revel Graduate School and Harry Fischel School

Dr. Ernst Jaffe, Acting Dean, Albert Einstein College of Medicine

Dr. Marcus D. Kogel, Vice-President for Medical Affairs and Science

Dr. Arthur Komar, Dean, Belfer Graduate School

Dr. Leo Landman, Secretary of the Faculty, Bernard Revel Graduate School

Dr. Israel Miller, Vice-President for Student Affairs

Dean David Mirsky, Dean, Stern College for Women

Dr. Israel Moshowitz, Special Advisor to the President

Mr. Jack Nussbaum, Director of Student Finances

Dean Jacob Rabinowitz, Dean, Erna Michael College of Hebraic Studies

Dr. William Rosenthal, Dean, Wurzweiler School of Social Work

Mr. Sidney Schutz, General Counsel

Professor Morris Silverman, Registrar

Dr. Sheldon E. Socol, Vice-President for Business Affairs

Professor Peretz Tishby, Director of Libraries

Mr. Abe Zeitz, Director of Development

EMPLOYER'S EXHIBIT No. 51

Faculty
Handbook

PROMOTIONS

Academic ranks for faculty at the University are:

Instructor

Assistant Professor

Associate Professor

Professor

University Policy
Governing Promotion
of Faculty

(Announced June 22, 1962)

1. Each degree-granting school of the University shall draw up in writing its requirements for promotion.
2. Each school shall invite faculty participation in the formulation and in the continual reevaluation of these rules.
3. These rules shall be circulated among all members of the faculty and shall be deposited with the University Faculty Review Committee and with appropriate agencies of the University administration.
4. Requirements for promotion shall be based on quality of service and achievement. Length of service in any particular rank need not be made a prerequisite of promotion to the rank above, but it is not inconsistent with this rule for schools which deem it desirable to do so to establish guidelines of normal expectancy with regard to length of service in particular ranks.
5. Promotion shall ordinarily carry with it a commensurate increase in salary.
6. Any faculty member who has remained at the rank of instructor, assistant professor, or associate professor for ten years without promotion to the next rank shall have his status automatically reviewed by the University Faculty Review Committee, which shall have the power to recommend promotion directly

to the President in those cases where after consultation with the dean it shall deem promotion justified in terms of the formulated requirements of the school concerned. Should the committee decide not to recommend promotion, it may at its discretion agree to review the case after an additional specified period if promotion has not in the meantime occurred.

YESHIVA UNIVERSITY
Amsterdam Avenue & 186th Street
New York, N.Y. 10033

OFFICE OF THE PRESIDENT

I am happy to extend my warmest greetings to each member of the University faculty.

The *Faculty Handbook* is intended to bring you greater understanding of present University policy in a number of vital areas. Amendments and additions will be made by the Board of Trustees as they become necessary.

You are invited to participate in the determination of policy through the interdivisional councils. Please be assured that your interest and suggestions are always welcome.

I am confident that you will find Yeshiva University a stimulating place for teaching and for conducting research that will result in significant contributions to your field and to the advancement of higher education.

Sincerely yours,

/s/ Samuel Belkin
SAMUEL BELKIN
President

CONTENTS

University Organization 5
Faculty Appointments 6
Maximum Loads Policy 7
Promotions 8
Statement of Tenure Policy 9
Sabbatical Leave Policy 12
Faculty Benefits 13
Use of the University Name 15
Conflict of Interest 16
Statement of Patent Policy 20
Statement of Patent Policy (AECOM) 21
Standard Faculty Research Agreement 22

YESHIVA UNIVERSITY SCHOOLS AND DIVISIONS

Undergraduate Schools for Men

YESHIVA COLLEGE
Main Center
Amsterdam Avenue and 186th Street, New York, N.Y. 1003 (212) 568-8400
First liberal arts college under Jewish auspices; grants Bachelor of Arts and Bachelor of Science degrees.

ERNA MICHAEL COLLEGE OF HEBRAIC STUDIES
Main Center
Trains Hebrew teachers and administrators; awards Hebrew Teacher's Diploma and Bachelor of Religious Education, Bachelor of Hebrew Literature, and Bachelor of Arts degrees.

JAMES STRIAR SCHOOL OF GENERAL JEWISH STUDIES
Main Center
Offers a special program of Jewish stuides for those with limited Hebraic background; students may apply credits toward their bachelor' sdegrees; grants Associate in Arts degree.

Undergraduate Schools for Women

STERN COLLEGE FOR WOMEN
Midtown Center
253 Lexington Avenue, New York, N.Y. 10016
(212) 685-0150
The nation's only liberal arts college for women under Jewish auspices; awards Bachelor of Arts, Bachelor of Religious Education, and Bachelor of Hebrew Literature degrees.

TEACHERS INSTITUTE FOR WOMEN
Midtown Center
Trains Hebrew teachers; awards Hebrew Teacher's Diploma and Bachelor of Religious Education and Bachelor of Hebrew Literature degrees.

Graduate and Professional Schools

BERNARD REVEL GRADUATE SCHOOL
Main Center
Offers graduate work in Jewish and Semitic studies; confers Master of Hebrew Literature, Master of Arts, Doctor of Hebrew Literature, and Doctor of Philosophy degrees.

HARRY FISCHEL SCHOOL FOR HIGHER JEWISH STUDIES
Main Center
Offers summer courses in Jewish and Semitic studies; awards Master of Hebrew Literature, Master of Arts, Doctor of Hebrew Literature, and Doctor of Philosophy degrees.

ALBERT EINSTEIN COLLEGE OF MEDICINE
Bronx Center
Eastchester Road and Morris Park Avenue, Bronx, N.Y. 10461 (212) 430-2000
The first medical college in the United States under Jewish sponsorship; awards Doctor of Medicine degree.

SUE GOLDING GRADUATE DIVISION OF MEDICAL SCIENCES
Bronx Center
Offers advanced study in anatomy, biochemistry, cell biology, geneics, microbiology, immunology, molecular biology, pathology, pharmacology, and physiology; awards Doctor of Philosophy degree.

WURZWEILER SCHOOL OF SOCIAL WORK
Granduate Center
55 Fifth Avenue, New York, N.Y. 10003
(212) 255-5600
Offers graduate programs in social group work and social casework; grants Master of Social Work degree.

FERKAUF GRADUATE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES
Graduate Center
Offers programs in elementary and secondary education (including English and social studies teaching); administration; psychology (clinical, educational, experimental, school, social); religious education; guidance; special education; language and behavior; grants Master of Religious Education, Master of Science, Master of Arts, Specialist's Certificate, Doctor of Education, and Doctor of Philosophy degrees.

BELFER GRADUATE SCHOOL OF SCIENCE
Main Center
Offers programs in mathematics, physics, chemistry, and mathematics and science education; awards Master of Science, Master of Arts, and Doctor of Philosophy degrees.

Yeshiva University Libraries

MENDEL GOTTESMAN LIBRARY
(*Herbraica, Judaica, Semitics, Mediterranean studies*)
Amsterdam Avenue and 186th Street, New York, N.Y. 10033

GRADUATE CENTER LIBRARY
55 Fifth Avenue, New York, N.Y. 10003

D. SAMUEL GOTTESMAN LIBARAY
Albert Einstein College of Medicine
Eastchester Road and Morris Park Avenue, Bronx, N.Y. 10461

POLLACK LIBRARY
2475 Amsterdam Avenue, New York, N.Y. 10033

BELFER GRADUATE SCHOOL OF SCIENCE LIBRARY
601 West 183rd Street, New York, N.Y. 10033

SIEGFRIED STERN LIBRARY
Stern College for Women
253 Lexington Avenue, New York, N.Y. 10016

UNIVERSITY ORGANIZATION

The governing body of the University is the Board of Trustees. The chief academic, administrative, and executive officer is the President of Yeshiva University, who

is also a member of the Board of Trustees, and other boards created by the Board of Trustees to aid specific divisions in the attainment of their goals. (At present one such board exists—the Board of Overseers of Albert Einstein College of Medicine.)

The Executive Council

The Executive Council of the University is a body appointed by the President, currently including the vice presidents of the University, deans of degree-granting schools and colleges, the Assistant to the President, the Dean of Admissions, the Director of the University Libraries, and the Dean of Undergraduate Students. Its function is to deal with University-wide policies and procedures, matters that affect the University as a whole, or two or more divisions, and such other University matters as the President may assign to it.

There are two Academic Councils of the University—one for graduate schools, the other for undergraduate schools.

The Council of Graduate Schools

The Council of Graduate Schools includes Albert Einstein College of Medicine, Belfer Graduate School of Science, Bernard Revel Graduate School, Ferkauf Graduate School of Humanities and Social Sciences, and Wurzweiler School of Social Work.

The Council of Undergraduate Schools

The Council of Undergraduate Schools includes Yeshiva College, Stern College for Women, Erna Michael College of Hebraic Studies, and Teachers Institute for Women.

The charges of these councils are, on their respective levels, the initiation of programs among the various divisions to develop a feeling of University fellowship; achievement of academic excellence; coordination and cooperation among the divisions. Membership of the councils consists of two elected faculty representatives from each school, and the deans as ex-officio with voting authority.

FACULTY APPOINTMENTS

Faculty appointments are made by the President, on recommendation of the dean or director of the particular school. While there may be "university appointments" making the talents of the individual available to more than one school, a faculty member is appointed to one school, and here he will be expected to fulfill his service on faculty committees and other such normal faculty obligations. Generally the letter of appointment states rank, salary, and general duties. It will also specify the length of time of the appointment: nine months, twelve months, or longer, as has been agreed upon. A nine-month appointment begins generally with orientation week in September and ends with Commencement in June.

Faculty reappointments are annual unless otherwise specified, until tenure is achieved.

Faculty salaries are ordinarily paid in equal installments, beginning October 1, as follows:

Nine-month appointment (September-June)	—10 installments
Twelve-month, or longer	—12 installments

One salary check will include regular earnings and extra earnings for additional teaching in other divisions, or other duties as agreed upon.

UNIVERSITY POLICY REGARDING MAXIMUM LOADS

(Announced April 26, 1966)

A. The University has the right to expect that its full-time faculty members will devote themselves full-time to the services of the University.

B. Each school within the University will establish for its faculty regulations defining full-time faculty load in consonance with its needs and programs.

C. Each school may devise regulations which will permit full-time faculty members to accept work beyond the full-time load.

1. ASSIGNMENTS WITHIN THE UNIVERSITY

When work beyond the normal load is under consideration, preference will be given, in consonance with the policy stated in paragraph A above, to additional assignments in other schools of the University. Any such arrangement shall be made with the consent of the faculty member and advance approval of the deans of both schools.

2. COMMITMENTS OUTSIDE THE UNIVERSITY

A full-time faculty member may not accept employment outside of the University without advance written approval of the Dean. In general, approval will not be given.

a. if the additional work is not related to the faculty member's professional skills within his area of specialization;

b. if, in the case of outside teaching employment, his total outside teaching assignment exceeds one-half of that established as a full teaching load in his school.

c. if, in the case of nonteaching employment, the additional work requires more than the equivalent of one day a week.

STATEMENT OF TENURE AND APPOINTMENT POLICY*

(Announced October 1, 1962,
Superseded January 14, 1974)

I. Preliminary Statement

These regulations which establish the Tenure and Appointment Policy for Yeshiva University were approved by the Board of Trustees on January 14, 1974, and may be amended from time to time by the Board of Trustees. These regulations may be reviewed from time to time by the faculties of the University, and any suggested amendments shall be submitted to the University's Executive Council for its recommendations and transmittal to the President and the Board of Trustees for such action as they deem advisable. All such amendments shall be set forth in the Faculty Handbook and shall contain the effective date thereof.

II. Eligibility For Tenure

1. Faculty members eligible for tenure are full-time appointees with academic rank of Professor, Associate Professor or Assistant Professor.

2. Faculty members who receive full-time academic appointment with such rank from the Board of Trustees through the President shall have served a period of seven years, inclusive of credit allowed for prior full-time service in this or other comparable institutions of higher learning, prior to becoming eligible for acquisition of tenure.

3. Appointment of such faculty member to an eighth year shall carry with it tenured status except as otherwise herein provided in this Article II, subdivision 5 hereof. A faculty member having tenured status shall then be subject to removal from his

---

* Not applicable to the Albert Einstein College of Medicine of Yeshiva University, for which other provisions governing tenure and appointment have been promulgated.

position, prior to retirement, only as hereinafter provided in Article IV hereof.

4. Professors, Associate Professors and Assistant Professors may be given credit at the discretion of the University for prior continuous full-time service in such ranks in this or other comparable institutions of higher learning. Faculty members appointed to the ranks of Professor and Associate Professor may have credit allowed up to five years for full-time service in this or other comparable institutions of higher learning; faculty members appointed to the rank of Assistant Professor may have credit allowed up to four years for full-time service in this or other comparable institutions of higher learning, provided, however, that the allowable credit for service in ranks below Assistant Professor may be no more than two years for full-time service in this or other comparable institutions of higher learning. Requests for credit toward tenure for prior continuous full-time service in comparable institutions of higher learning shall be submitted to the Dean during the initial year of the faculty member's full-time appointment or within six months of the approval of these regulations by the Board of Trustees. The Dean will submit this request with his recommendation to the President, who shall make the final determination.

5. The following categories are not eligible for tenure:

   (a) A faculty member holding a part-time appointment; all appointments unless specified as full-time in the letter of appointment shall be deemed part-time;

   (b) A faculty member whose title is other than Professor, Associate Professor or Assistant Professor (such as Research Professor, Adjunct Professor, Visiting Professor, etc.);

   (c) A faculty member whose initial and subsequent appointment is subject to special funding derived in the main from non-University funds, or whose initial and subsequent appointment is in connection with special projects.

6. Leaves of absence, other than the privilege of a sabbatical leave, shall not contribute allowable credit toward tenure unles otherwise provided in the letter granting such leave of absence.

7. A full-time faculty member, as a condition of accruing credits toward or maintaining tenured status, shall devote his full time to the University, and shall accept no other employment, except where provisions in writing are made to the contrary by the President, and his activities shall be consistent with the professional growth which is expected of and demanded from a faculty member.

8. A faculty member may terminate his appointment effective at the end of an academic year, provided that he gives notices in writing at the earliest possible opportunity but not later than May 15, or 30 days after receiving notification of the terms of his appointment for the coming year, whichever date occurs later. The faculty member properly may request a waiver of this requirement of notice in case of hardship or in a situation where he would otherwise be denied substantial professional advancement or other opportunity.

9. The President, acting for and on behalf of the Board of Trustees, may grant tenured status at any time by letter signed by him.

III. Appointment and Termination of Full-time Non-Tenured Faculty

1. Appointment of a full-time faculty member shall be made for a definite term in writing. A person who has served for less than one academic year shall require no notice in advance of the termination date and non-renewal of his appointment; a person who has served one year but less than two academic years shall be notified in writing at least three months in advance of the termination date and non-renewal of his appointment; a person who has served two years

or more shall be notified in writing not later than one month after the beginning of instruction of the academic or teaching year of the termination date and non-renewal of his apointment. In those cases where the letter of appointment or reappointment fixes a definite date of commencement and termination, no further notice of termination shall be required.

2. No reason need be given by the University for termination of appointment at the end of the term thereof of a non-tenured faculty member.

3. The appointment of a faculty member whose initial and any subsequent appointment is subject to special funding, or whose initial and any subsequent appointment is in connection with a special project, shall expire upon cessation of such fundings or upon completion of the project, and no notice shall be required.

4. Non-tenured faculty may be discharged for cause at any time before the expiration of their appointment, subject to the hearing procedures described in Article IV.

5. In the event that termination of tenured faculty for financial exigency or departmental reorganization becomes mandatory, a non-tenured member of the faculty may be terminated by the University at any time during the period of his appointment or at the end of such appointment.

IV. Termination of Tenured Faculty

1. A tenured faculty member shall not be removed except upon written charges for cause. Dismissal for cause shall include incompetency, immoral character or conduct unbecoming a teacher, inefficiency, physical or mental disability or neglect of duty, and personal conduct which impairs the individual's fulfillment of his institutional responsibilities. The burden of proof in establishing cause for dismissal rests upon the University.

2. When the Dean has information or receives a complaint against a faculty member containing allegations which, if true, might serve as grounds for dismissal for cause, and he deems such information or complaint to be substantial, he may discuss such complaint with the person concerned and shall make such further investigation as he deems appropriate. Should the Dean determine that charges should be brought against such person he shall forward such information to the President, together with his recommendations. Should the President determine, after making such further investigation as he deems appropriate, that further action is warranted, he shall cause to be served upon the faculty member concerned a written statement of the charges against him.

3. Final action shall not be taken on such charges until after the expiration of fifteen days from the date of service of such notice of charges upon the faculty member charged, during which time he may make a written request to the President for a hearing. At the option of the faculty member charged, such hearing shall be held before a faculty review committee appointed by the President for that purpose or before the University Faculty Review Committee. Such faculty member shall have the opportunity to be heard in his own defense. He shall be permitted to have with him an adviser of his own choosing or an attorney who may act as counsel. The committee shall adopt its own rules and procedures for the conduct of the hearing, and, in consultation with the President and the faculty member, shall exercise its judgment as to whether the hearing shall be public or private. The testimony of witnesses and other evidence concerning the matters set forth in the charges shall be presented by the University's Counsel and shall be received by the committee. The faculty member shall be entitled to present witnesses in his own behalf, and confront and question witnesses adverse to him. The hearing committee shall not be bound by strict rules of legal evidence and may admit any evidence which is of a probative

value in determining the issues involved. All evidence shall be duly recorded and a copy of the transcript of the record of the hearing shall be made available to the parties concerned.

4. The recommendation of the hearing committee shall be based on its findings relative to the written charges and forwarded to the President for final action.

5. In the interval between the making of charges against a faculty member and final determination by the President, the faculty member may be suspended by the President.

V. Termination of Tenured Faculty for Financial Exigency or Departmental Reorganization

1. Termination of a tenured appointment because of financial exigency shall be substantiated. When the President anticipates that such action may be necessary, he shall confer with the Dean and the Welfare Committee, if any, of the school involved concerning the policy to be followed in the reduction of staff before such action is taken. The name of the faculty member separated from the University by reason thereof shall be placed on a preferred eligibility list reserved for such cases and for a period of two years thereafter no discontinued tenure position in the subject matter in his Department shall be filled before the option of filling it at his former rank shall have been first offered to the faculty member thus separated.

2. In the event of department or program reorganization permanently eliminating the position held by the faculty member, the following procedures shall apply: non-tenured personnel of such department shall be separated from the University before any tenured position shall be affected; tenured faculty members shall be separated in inverse order of their rank; in the event of such departmental reorganization, a tenured faculty member shall be first reassigned to

new duties if practicable, in the opinion of the President.

3. A tenured faculty member who suffers a non-discriminatory discontinuance of his tenured position shall be considered to be on leave with pay for one year from termination of the position and without pay for one additional year.

VI. Retirement

1. The statutory retirement age is 65. If the 65th birthday falls between February 1 and August 31, the Spring term is the last term of service. If it falls between September 1 and January 31, the Fall term is the last term of service. With the approval of the President, the Dean may postpone retirement to the end of that academic year. The President may, under special circumstances, and in his discretion, appoint a retired member of the University to continue in service on an annual basis or on a semester basis but not beyond the semester in which his 68th birthday falls. The terms and conditions of such an appointment shall be clearly stated in writing.

SABBATICAL LEAVE POLICY

(Announced March 15, 1965)

Purpose

The primary purpose of the sabbatical leave is to provide an opportunity for faculty members to engage in such scholarly, creative, professional, research, or academic activities as will enhance the faculty member's further service to the University.

Eligibility

Sabbatical leave is to be granted as an earned privilege, not as an automatic right. The privilege of sabbatical leave is available to all full-time members of the faculty in every seventh year of continuous full-time service.

In instances where sabbatical leave has been postponed, at least five years of academic service must separate successive leaves, except in those instances where the postponement was at the option or convenience of the University.

After twelve years of continuous service without a sabbatical leave, a faculty member may arrange in special instances to receive two successive periods of sabbatical leave. The maximum salary to be received from the University during these two periods will be the equivalent of one year's salary.

Period of Leave and Salary

Sabbatical leave may be granted for one-half year at full salary or one year at half-salary.

Restrictions

Normally, the period of sabbatical leave should *not* be used to accept routine responsibilities elsewhere. Compensation shall not be paid in lieu of taking a sabbatical leave.

Procedure

A detailed plan for use of the sabbatical leave shall be submitted by January 1 preceding the academic year in which the sabbatical leave is to commence. Approval for the leave must be granted by the department head or division chairman, the dean and the President, taking into account the personnel needs of the University and budgetary considerations.

Obligation to Return

In order to fulfill the purpose of sabbatical leave, it is expected that the recipient will continue his service at the University following the completion of sabbatical leave.

Report

Within three months after return to the University, the recipient of sabbatical leave will present to the dean for submission to the President a written report describing his activities during the sabbatical leave.

FACULTY BENEFITS

Social Security

It is compulsory for all employees of the University to be covered under Social Security provisions: Federal Old Age, Survivors, Disability, and Hospital Insurance.

Medical Insurance

Medical insurance is available to all employees through the Health Insurance Plan (HIP). The cost of practically all medical care by family doctors and specialists in medical groups affiliated with HIP is fully covered. HIP provides this service to persons living in the five boroughs of New York City and certain areas in Nassau, Suffolk, and Westchester counties. HIP offers a limited cash indemnity coverage for persons living outside these areas. Faculty members are eligible immediately on employment and no medical examination is required during the first month of eligibility. The monthly rates are $2.25 for an individual, $4.50 for a couple, and $6.75 for a family of three or more. In addition to the employee's contribution, to cover the premium, the University contributes an equal amounts.

Hospital-Surgical Insurance

Hospitalization insurance is available to all employees immediately on employment through the Associate Hospital Service (Blue Cross) or in combination with the surgical benefits offered under the United Medical Service (Blue Cross and Blue Shield). Both types of insurance are available under the conventional 21-Day Plan or the extended coverage 120-Day Plan with a rider increasing benefits to 365 days.

Major Medical Insurance

Major medical insurance is available to all faculty members with or without the above hospital-surgical or medical coverage. Under this plan 80% of a major medical expense is paid by the insurance company after a cash deductible has been satisfied. The major medical expense excludes any charges reimbursed under the University's other hospital-surgical or medical plans.

In addition to providing this insurance on a group basis, the cost to each faculty member is further reduced through University contributions.

Life Insurance

Faculty members who earn $4,000 a year or more at Yeshiva University are eligible for group life insurance immediately on employment. The amount of insurance is triple the annual salary, to the nearest thousand, with a maximum of $25,000. A medical examination is not required if the faculty member enrolls during the first month of employment.

Pension

Full-time members of the faculty are eligible to participate in the Retirement Income Plan. Normal retirement is at the age of 65, but early retirement may be elected any time after the age of 55. Retirement is mandatory at the age of 68. Benefits depend on the amount contributed and the age of retirement. Both the faculty member and the University contribute to this fund on behalf of the individual member. Additional contributions to increase the benefits received after retirement will be deducted from a faculty member's salary, if desired. Faculty contributions are made on the basis of a compensation agreement between the faculty member and the University in which the faculty member agrees to a reduction in salary equivalent to the rate of contribution desired and the University agrees to use this reduction in salary to purchase tax-defered annuity benefits for the faculty member. Because of this arrangement, income taxes on the faculty member's contributions are deferred until after retirement.

Details about these plans are available from the Office of the Vice President for Business Affairs at the Executive Offices of the University.

Tuition Grants to Faculty Relatives

Beginning with the second year of full-time employment, the University grants a 50% reduction of tuition to the Yeshiva University high schools, colleges, and graduate schools to children, husbands, and wives of full-time members of the faculty. Beyond that reduction, faculty members may apply for financial assistance through the normal channels of the College Scholarship Service.

Allocations for Travel to Meetings of Learned Societies

Within the limits of the approved budget the University will reimburse members of the full-time faculty the cost of travel in this country to deliver papers or to serve as panel participants at meetings of learned societies. Permission of the chairman and the dean or director is required.

OUTSIDE USE OF THE UNIVERSITY NAME

The name of Yeshiva University or of any of its schools may be used without prior approval only in the cases of scholarly usage, such as the publication of an article, reading of a scholarly paper, publication of a book, and other such academic instances. It is understood that authors will use the term "Yeshiva University," not the name of his division *only*.

It may *not* be used in any statement or publication implying University approval *unless* prior approval is granted by the President or his designees. It may not be used to advertise the faculty member's connection with the University in a business or speculative venture. In the case of a political advertisement paid, or contributed to, by a member of the faculty care should be taken that such a publication of one's connection with the University will not imply University commitment to any political creed, candidate, or policy.

CONFLICT OF INTEREST

A STATEMENT BY THE AMERICAN COUNCIL ON EDUCATION (DEC., 1964), AND ADOPTED BY THE PRESIDENT OF THE UNIVERSITY (MARCH 5, 1965)

On Preventing Conflicts of Interest in Government-Sponsored Research at Universities

The increasingly necessary and complex relationship among universities, Government, and industry call for more intensive attention to standards of procedure and conduct in Government-sponsored research. The clarification and application of such standards must be designed to serve the purposes and needs of the projects and the public interest involved in them and to protect the integrity of the cooperating institutions as agencies of higher education.

The Government and institutions of higher education, as the contracting parties, have an obligation to see that adequate standards and procedures are developed and applied; to inform one another of their respective requirements and to assure that all individuals participating in their respective behalfs are informed of and apply the standards and procedures that are so developed.

Consulting relationships between university staff members and industry serve the interests of research and education in the university. Likewise, the transfer of technical knowledge and skill from the university to industry contributes to technological advance. Such relationships are desirable, but certain potential hazards should be recognized.

A. Conflict Situations

1. OUTSIDE INTERESTS

When a university staff member (administrator, faculty member, professional staff member, or employee)

undertaking or engaging in Government-sponsored work has a significant financial interest in, or a consulting arrangement with, a private busines concern, it is important to avoid actual or apparent conflicts of interest between his Government-sponsored university research obligations. Situations in or from which conflicts of interest may arise are:

a. Undertaking or orientation of the staff member's university research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the university and to the sponsoring agency;

b. Purchase of major equipment, instruments, materials, or other items for university research from the private firm in which the staff member has the interest without disclosure of such interest;

c. Transmisison to the private firm or other use for personal gain of Government-sponsored work products, results, materials, records, or information that are not made generally available. (This would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of Government-sponsored research where there is significant additional work by the staff member independent of his Government-sponsored research.);

d. Use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's Government-sponsored activities. (The term "privileged information" includes, but is not limited to, medical personnel, or security records of individuals; anticipated material requirements or price actions; possible new sites for Government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements.);

e. Negotiation or influence upon the negotiation of contracts relating to the staff member's Government-sponsored research between the university and private organizations with which he has consulting or other significant relationships;

f. Acceptance of gratuities or special favors from private organizations with which the university does or may conduct business in connection with a Government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring Government agency under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

2. DISTRIBUTION OF EFFORT

There are competing demands on the energies of a faculty member (for example, research, teaching, committee work, outside consulting). The way in which he divides his effort among these various functions does not raise ethical questions unless the Government agency supporting his research is misled in its understanding of the amount of intellectual effort he is actually devoting to the research in question. A system of precise accounting is incompatible with the inherent character of the work of a faculty member, since the various functions he performs are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a staff member will devote a certain fraction of his effort to the Government-sponsored research, or he agrees to assume responsibility in relation to such research, a demonstrable relationship between the indicated effort or responsibility and the actual extent of his involvement is to be expected. Each university, therefore, should—through joint consultation of administration and faculty—develop procedures to assure that proposals are responsibly made and complied with.

3. CONSULTING FOR GOVERNMENT AGENCIES OR THEIR CONTRACTORS

When the staff member engaged in Government-sponsored research also serves as a consultant to a Federal agency, his conduct is subject to the provisions of the Conflict of Interest Statutes (18 U.S.C. 202-209 as amended) and the President's memorandum of May 2, 1963, Preventing Conflicts of Interest on the Part of Special Government Employees. When he consults for one or more Government contractors, or prospective contractors, in the same technical field as his research project, care must be taken to avoid giving advice that may be of questionable objectivity because of its possible bearing on his other interests. In undertaking and performing consulting services, he should make full disclosure of such interests to the university and to the contractor insofar as they may appear to relate to the work at the university or for the contractor. Conflict of interest problems could arise, for example, in the participation of a staff member of the university in an evaluation for the Government agency or its contractor of some technical aspect of the work of another organization with which he has a consulting or employment relationship or a significant financial interest, or in an evaluation of a competitor to such other organization.

B. University Responsibility

Each university participating in Government-sponsored research should make known to the Government-sponsoring agencies:

1. The steps it is taking to assure an understanding on the part of the university administration and staff members of the possible conflicts of interest or other problems that may develop in foregoing types of situations, and

2. The organizational and administrative actions it has taken or is taking to avoid such problems, including:

   a. Accounting procedures to be used to assure that Government funds are expended for the purposes for which they have been provided, and that all services which are required in return for these funds are supplied;

   b. Procedures that enable it to be aware of the outside professional work of staff members participating in Government-sponsored research, if such outside work relates in any way to the Government-sponsored research;

   c. The formulation of standards to guide the individual university staff members in governing their conduct in relation to outside interests that might raise questions of conflicts of interest; and

   d. The provision within the university of an informed source of advice and guidance to its staff members for advance consultation on questions they wish to raise concerning the problems that may or do develop as a result of their outside financial or consulting interests, as they relate to their participation in Government-sponsored university research. The university may wish to discuss such problems with the contracting officer or other appropriate Government official in those cases that appear to raise questions regarding conflicts of interest.

The above process of disclosure and consultation is the obligation assumed by the university when it accepts Government funds for research. The process must, of course, be carried out in a manner that does not infringe on the legitimate freedoms and flexibility of action of the university and its staff members that have traditionally characterized a university. It is desirable that standards and procedures of the kind discussed be formulated and administered by members of the university community themselves, through their joint initiative and responsibility, for it is they who are the best judges of the conditions which can most effectively simulate the search for knowledge and preserve the requirements of academic freedom. Experience indicates that such standards and procedures should be developed and specified by joint administrative-faculty action.

STATEMENT OF PATENT POLICY,

Applicable to Divisions of Yeshiva University,
other than Albert Einstein College of
Medicine of Yeshiva University

It is the policy of Yeshiva University to utilize any income to be obtained from inventions and discoveries made by members of the staff thereof exclusively for the further promotion of education and for the other purposes of the said university.

Accordingly, Yeshiva University requires that all inventions and discoveries made by members of its staff shall be assigned to the University.

In cases of patents arising on work under Government-sponsored contracts, the express provisions of such contract will control.

The inventor is required to cooperate with the University Faculty Patent Committee who shall be the sole judge of the right of the inventor and the University with regard to the aforesaid inventions and discoveries, in order to carry out the purposes of this policy.

Yeshiva University may require formal agreements to be signed by individual staff members to carry out the foregoing. A copy of such agreement is attached hereto.

STATEMENT OF PATENT POLICY,

Applicable to Albert Einstein College of
Medicine of Yeshiva University

It is the policy of Albert Einstein College of Medicine of Yeshiva University to utilize any income to be obtained

from inventions and discoveries made by members of the staff thereof exclusively for the further promotion of medical education and for the other purposes of the said College.

Accordingly, Albert Einstein College of Medicine requires that all inventions and discoveries made by members of its staff shall be assigned to the University Medical Research Foundation, a non-profit corporation affiliated with the school, whose entire income from such inventions and discoveries is used for the exclusive benefit of the College of Medicine.

In cases of patents arising on work under Government-sponsored contracts, the express provisions of such contract will control.

In cases where the individual inventor wishes to take out the patent in his own name and dedicate it to the public receiving neither of profit or value therefrom, such will be permitted provided that the rights of Albert Einstein College of Medicine in such invention are fully protected and the Faculty Patent Committee approves thereof.

The inventor is required to cooperate with the Faculty Patent Committee who shall be the sole judge of the rights of the inventor and Albert Einstein College of Medicine with regard to the aforesaid inventions and discoveries, in order to carry out the purposes of this policy.

Albert Einstein College of Medicine may require formal agreements to be signed by individual staff members to carry out the foregoing. The copy of such an agreement (assuming appropriate changes of referring to the parties involved) follows.

STANDARD FACULTY RESEARCH AGREEMENT

It is understood between myself and Yeshiva University (hereinafter referred to as the University) that my duties as a member of the faculty will involve various research activities. Since the proper utilization of the results of this research is of vital concern to the University I agree to the following terms and conditions relative thereto:

I will promptly disclose all inventions, improvements, or discoveries to Yeshiva University, whether patentable or unpatentable, made by me solely or in cooperation with another during the time that I remain a member of the faculty of the University which relate directly or indirectly to the work upon which I am engaged.

I will assign to Yeshiva University, or any other entity designated by it, all of my rights, title and interest to any invention, improvement or discovery, whether patentable or unpatentable, made by me during the time that I remain a member of its faculty, which relate directly or indirectly to the work upon which I am engaged as such member.

I will promptly execute any and all documents at the request of Yeshiva University which may be necessary to effect the full and complete assignment of my inventions, improvements, and discoveries as aforesaid, including, but not limited to execution of all patent applications, oathes, supplemental oaths, assignments and all other papers incident to applying for, obtaining, and maintaining Letters Patent of the United States of America and countries foreign thereto, and all other documents required by Government Agencies as a condition for research grants.

I will authorize the Commissioner of Patents of the United States of America, and any official with similar functions in any country foreign thereto, to issue each and every Letters Patent or similar document that may result from any of my inventions; improvements, or discoveries as aforesaid, and will agree to withhold the

issuance of Letters Patent if, in the sole opinion of Yeshiva University, such action is warranted.

If the University is a party to any other research grant contract which has provisions inconsistent with this agreement, the provisions of the research grant contract shall prevail.

It is further agreed that I will dedicate any invention or discovery made solely by me, and not in connection with others, provided I promptly advise the University of the same, and publish a complete disclosure of the invention or discovery. I further agree in connection therewith to take all necessary steps to avoid any third party from obtaining rights therefrom, and it is further understood that I am to receive nothing of value by reason of such invention or discovery. It is understood that in the event there are others at the University engaged in the invention or discovery, that there shall then be no personal right of dedication.

In view of my engagement as aforesaid, I shall be entitled to fifteen percent (15%) of the net income directly accruing to Yeshiva University, or any other entity designated by it, from my inventories, improvements, or discoveries heretofore assigned.

Date: ....

EMPLOYER'S EXHIBIT NO. 52

YESHIVA UNIVERSITY

To:

Deans: Bacon, Gittler, (Green), Hoening, Jaffe, Komar, Mirsky, Rabinowitz

Date:

May 20, 1974

From:

Dr. Joshua A. Fishman
Vice President for Academic Affairs

Subject:

Outside Employment

The revised Tenure Statement approved by the Board of Trustees on January 14, 1974 provides (II, 7) that

> "A full-time faculty member, as a condition of accruing credits toward or maintaining tenure status, shall devote his full time to the University, and shall accept no other employment, except where provisions in writing are made to the contrary by the President, and his activities shall be consistent with the professional growth which is expected of and demand from a faculty member."

Would you, therefore, please ask all full-time members of your faculty to make the appropriate correction in the section of the Faculty Handbook dealing with FACULTY LOAD so that it will read as follows:

FACULTY LOAD

2. Commitments outside the University

A full-time faculty member may not accept employment outside of the University without advance written APPROVAL OF THE PRESIDENT. In general, approval will not be given if:

a. the additional work is not related to the faculty members professional skills within his area of specialization.

b. in the case of outside teaching employment, his total outside teaching assignment exceeds one-half of that established as a full-teaching load in his school;

c. in the case of non-teaching employment, the additional work requires more than the equivalent of one day a week.

Please advise members of your full-time faculty who desire to pursue employment outside of the University to submit to you their requests in accord with the above desiderata. These requests, together with your own recommendations, should be forwarded to my office for final clearance.

EMPLOYER'S EXHIBIT NO. 53

UNIVERSITY FACULTY REVIEW COMMITTEE

PROCEDURAL BYLAWS

A. Non-promotion after ten years or more.

1. Not later than the end of the eighth week of each academic year, each School representative on the Committee shall send a letter to all faculty members of his School inviting each Instructor, Assistant Professor and Associate Professor who has not been promoted for ten years or more, to inform him if he wishes his case to be reviewed by the Committee, and his view concerning his promotion status.

2. In cases where individual faculty members wish their cases to be reviewed the following steps shall be taken:

a. The faculty member will be asked to provide the Secretary of the University Committee with a current curriculum vitae, copies of reprints, etc.

b. The Committee shall communicate with the Dean of the relevant School to inquire concerning the reason for non-promotion, as well as to ascertain the history of promotion actions in regard to the individual.

c. Before the Committee shall attempt an independent adjudication of any matter involving promotion, it shall first seek to have the matter of promotion considered in the relevant substantive department of the faculty member, the relevant promotion committee and/or the relevant review committee or faculty grievance committee of the School. In all cases the University Faculty Review Committee shall strive to determine that appropriate procedural rules are followed.

d. If all normal procedural avenues have been exhausted at a given School the Committee shall, at

the request of a faculty member, consider the case on its merits. In all cases such consideration shall be in terms of the stated criteria for promotion at the school in question.

3. When the Committee is involved in adjudicating a promotion matter, it shall have access to the records of committees on promotion, as well as to appropriate faculty colleagues, departmental chairman and the Dean of the School involved.

4. Before taking any final action, the Committee shall communicate its findings to the Dean of the School involved. If the Committee feels promotion is warranted, after all due consultation has been exhausted, it shall as final action communicate with the President of the University recommending such action.

B. Procedures in Regard to Tenure.

1. The Faculty Review Committee shall when called upon by a faculty member serve as a Tenure Hearing Committee. In all such cases it shall serve as an impartial body to which both the Administration as well as the faculty member involved shall have equal access. In such cases, a subcommittee of not more than three members of the Review Committee shall be appointed to conduct a full investigation of factors involved in a given case, and to bring all facts developed in a case to the attention of the full committee. In the event of the need for formal hearings, the faculty member shall have the right to appropriate legal counsel and the subcommittee and the Committee shall have the prerogative of advice from the University legal counsel. Hearings involving discipline or loss of tenure shall conform to standards of due process and procedures shall be in accordance with applicable Tenure Regulations.

C. Procedures in Regard to Faculty Grievances.

1. In cases involving grievances, the Committee shall first ascertain that a given problem has been given

appropriate attention by appropriate grievance machinery at a given School, and whether the grievance has economic effect. When a case is brought to its attention, it shall review the history of the case to determine whether prior actions in regard to the matter have adhered to existing rules and regulations at the relevant School. When it has been determined that a bona fide case exists, and that all avenues of review have been exhausted, the Committee will consider the matter on its merits. When a matter involving grievance is considered or its merits, the Committee shall have access to all relevant facts both from the individual who claims to be aggrieved as well as from the prior review bodies.

2. In making recommendations in regard to grievances the Committee shall first contact the Dean of the relevant School, and if the matter is not satisfactorily resolved, shall have the power to make recommendations directly to the President of the University.

UNIVERSITY FACULTY REVIEW COMMITTEE

STATUTE

1. The University Faculty Review Committee is hereby established. The authority of such Committee shall be limited to making recommendations directly to the Dean of any School or, where appropriate, to the President of the University, in the following cases:

   (a) Upon the petition of any faculty member who has remained Instructor, Assistant Professor, or Associate Professor without promotion to a higher rank for ten years or more, and after after review by the Committee, the Committee may recommend promotion. Should the Committee decide not to recommend promotion, it may in its discretion agree to review the case after an additional period specified by it if promotion has not occurred within such period.

(b) In cases arising under the Tenure Regulations involving the discipline or the termination of tenure of a faculty member, and where the faculty member involved has elected to have such case heard by the Committee acting as a Hearing Committee, the Faculty Review Committee or subcommittee thereof shall act as Hearing Committee in accordance with the governing Tenure Regulations.

(c) The Committee may hear the grievance of any faculty member with the exception of any grievance having economic effect, provided that such faculty member has exhausted the grievance procedures available to him at the School level.

2. The Committee may hear any case within its jurisdiction when petitioned by an individual faculty member, the faculty of any School, or a member of the Administration.

3. (a) The Committee shall be comprised of eight members, who shall be elected as follows:

Albert Einstein College of Medicine Sue Golding Graduate Division	1 Member
Belfer Graduate School of Science	1 Member
Bernard Revel Graduate School Harry Fischel School	1 Member
Erna Michael College for Men James Striar School	1 Member
Ferkauf Graduate School	1 Member
Stern College for Women Teachers Institute for Women	1 Member
Wurzweiler School of Social Work	1 Member
Yeshiva College	1 Member

(b) The faculty of such Schools shall elect their representative by procedures adopted by them, or by procedures established by the Deans of the

pertinent Schools should the faculty fail to adopt such procedures.

4. Committee members shall be full-time tenured members of the faculty. Committee members shall be elected for a two-year term beginning July 1 of the year of election, and may be reelected for one additional two-year term. No member who has served four consecutive years may be reelected until two years have intervened. Terms shall be staggered so that, so far as possible, an equal number of members shall be elected each year, as follows:

To elect in even-numbered years	To elect in odd-numbered years
Albert Einstein College of Medicine Sue Golding Graduate Division	Erna Michael College for Men James Striar School
Belfer Graduate School of Science	Ferkauf Graduate School
Bernard Revel Graduate School Harry Fischel School	Stern College for Women Teachers Institute for Women
Yeshiva College	Wurzweiler School of Social Work

5. Should a vacancy occur prior to the expiration of an elected term, it shall be filled by a special election for the remainder of the unexpired term.

6. The Committee shall at its first meeting of each academic year elect a Chairman and a Secretary for one-year terms. In the event of the absence of either at any meeting the members present shall elect a Temporary Chairman or Temporary Secretary for such meeting. The Secretary shall maintain all records of the Committee, including correspondence, minutes of meetings, and confidential folders.

7. A quorum shall consist of the majority of the members, and affirmative action on any motion shall require the vote of a majority of the members present, provided a quorum is in attendance.

8. The latest edition of *Robert's Rules of Order* shall govern the conduct of meetings of the Committee or

its subcommittees. Minutes shall be considered non-published.

9. Except as may be provided under these Regulations, the Committee may adopt bylaws for the conduct of its business or the business of its subcommittees.

10. Committee members shall report at least once a year to the faculty which they represent concerning the activities of the Committee. During June of each year the Committee shall transmit a report of its activities during the year to the Executive Council of the University.

EMPLOYER'S EXHIBIT No. 54

Re: UNIVERSITY FACULTY REVIEW COMMITTEE

The following members of the Yeshiva University faculties sought the services of the committee within the last two years:

Dr. J. J. Smith (Einstein)

Dr. H. Rappaport (Einstein)

Dr. M. Greenberg (Wurzweiler)

Dr. S. Simmonson (Ferkauf)

EMPLOYER'S EXHIBIT NO. 55

YESHIVA UNIVERSITY

YESHIVA COLLEGE FACULTY STATUTE

I. THE FACULTY

A. *Authority*: Subject to approval by the President, the authority to legislate on all academic matters affecting Yeshiva College rests with the Faculty. The Dean is the chief educational officer of the College and shall be responsible for the administration of the College's program. He shall convey to the President the Faculty's recommendations and decisions.

B. *Composition*: The faculty shall consist of the President, the Dean, officers of instruction, emeriti, the Registrar, the Dean of Admissions, the Dean of Students, the Director of Libraries, the Librarian of the Pollack Library, the Librarian of the Mendel Gottesman Library, the Guidance Counselor, the University Physician, the University Psychiatrist, and the College Psychologist.

C. *Classification of Officers of Instruction*:

1. Regular members

a. Definition: Regular members of the Faculty are those who meet the following qualifications:

(1) Teach a full-time program, and

(2) Are on regular appointment on an annual salary; regular status is not automatically attained by the teaching of a full program, but must specifically be conferred in the letter of appointment.

b. Ranks: Regular members of the faculty shall be classified according to the following ranks:

(1) Instructor

(2) Assistant Professor

(3) Associate Professor

(4) Professor

2. Associated Members

a. Members of the faculty not on regular appointment who teach at another institution of higher learning shall have the same academic rank at Yeshiva as they have at the other institution, with the prefix "Visiting."

b. Members of the faculty not on regular appointment who are not associated with another academic institution normally receive the rank of Lecturer. If they have been granted a different rank the word "Adjunct" will be prefixed to it.

3. Assistants

A graduate student who teaches courses or assists in laboratory work the responsibility for which rests on a member of the faculty shall be designated as an Assistant. Assistants do not have faculty status.

D. *Rights and Responsibilities of the Faculty*

1. Rights

a. The Faculty shall have the rights of academic freedom customary in American universities, as defined in the By-Laws.

b. Faculty members shall be entitled to tenure, promotion, sabbatical leaves, retirement plans, pensions, insurance and

health plans, and other welfare benefits as provided for in the By-Laws.

2. Responsibilities

   a. Faculty members shall have the responsibilities customary in American universities in the areas of effective instruction, scholarly growth, and participation in the professional life of the institution, and shall abide by the rules set up by the Faculty or administration, as approved by the President, with the main objective in mind of obtaining the optimal benefits for the students.

II. FACULTY ASSEMBLY

A. *Function*: The faculty, meeting as a collective body, shall be known as the Faculty Assembly.

B. *Officers*:

1. The presiding officer at meetings of the Faculty Assembly shall be the Dean or such person as he may designate.

2. The Assembly shall at its last regular meeting in each odd-numbered year elect a secretary; in his absence the Assembly will elect a secretary pro-tempore.

C. *Meetings*:

1. The Assembly will meet no less than twice each year—in October and in May or June —in regular meeting. The Dean may at his discretion call additional regular meetings. Due notice of all meetings shall be sent out by the secretary at least seven days prior to the meeting, and the notice shall include the agenda.

2. Special meetings shall be called by the Dean upon written request of ten voting members

of the faculty. Such requests shall include the object of the meeting. Due notice of special meetings will be sent out by the secretary at least ten days prior to the meeting. The notice shall include the object of the meeting, and no other business shall be transacted at such a meeting.

3. The minutes of each meeting shall be duplicated and circulated but are treated as non-published unless otherwise specifically directed by vote of the Assembly.

4. Debates and discussions are to remain confidential. Official announcements of actions taken by the Faculty Assembly may be made only by the Office of the Dean or or such other office or person as may be authorized by the Assembly.

5. The secret ballot shall be substituted for a show of hands when it is called for by even a single full-time member of the faculty.

D. *Voting Members*:

All members of the Faculty, and all such members who legally retire, will have the right to attend meetings of the Faculty Assembly and the Departments and speak. The right to vote is given to those who fall into one of the following categories:

1. Full-time faculty members in the College on regular appointment.

2. Members who have legally retired who had a right to vote when they were in attendance; but they shall retain the right to vote for only one year.

3. Members on a leave of absence who had a right to vote when they were in attendance; but they shall retain the right to vote for only one year.

4. The President, the Dean, the Dean of Students, the Librarian of the Pollack Library and the Librarian of the Mendel Gottesman Library.

The Faculty Assembly shall grant the right to vote to those who fall into one of the following categories, upon their request:

5. Full-time officers of instruction in the University who teach three or more hours in the College.

6. Part-time faculty members who have been in the College for five or more years and teach three or more hours in the College.

7. Members who have retired or are on a leave of absence who had a right to vote when they were in attendance for additional years beyond the first year of absence or retirement.

The Faculty Assembly by two thirds vote may grant the right to vote to those who fall into the following category, upon their request:

8. Members of the College Faculty and Administration in addition to those named in paragraph II D 4.

E. *Procedure for Legislation*

1. The Faculty shall formulate its legislation through committees.

2. The text of any committee proposal for faculty action shall be incorporated in the call for the next Assembly meeting.

3. Legislation accepted by the Faculty Assembly shall take effect unless disapproved by the President.

IV. COMMITTEES OF THE FACULTY

A. *Types of Committees*

1. The Faculty shall formulate its legislation through committees.

2. These committees shall be of two types: standing and ad hoc.

B. *Ad Hoc Committees*

1. Ad hoc committees of the faculty, appointed temporarily as the need arises to study specific questions, shall be selected as directed in the resolutions eseablishing such committees.

2. Ad hoc committees shall not serve longer than one year without specific authorization of the Faculty.

C. *Method of Selection of Standing Committees*

1. A Committee on Committees consisting of five full professors shall be elected at a Faculty Assembly in January 1965. The Committee shall poll all voting members of the Faculty for their preferences for committee memberships, and on the basis of these choices the committee shall no later than March 31 recommend to the Assembly a slate of committees to take office September 1.

2. In order to establish rotation in the office the Committee shall at the outset divide each committee, including itself, as evenly as possible into three groups, to serve for one, two, and three years respectively, and shall designate the members of each group. The successors of these original members shall be chosen for a three year term, except for members chosen to fill vacancies, who shall serve for the remainder of the unexpired term.

3. Not later than February 28 of each year the Committee on Committees shall poll voting members of the Faculty for their preferences for such committee memberships as shall be open that year, and on the basis of these choices shall no later than March 31 recommend to the Faculty Assembly members to fill the vacancies.

4. Within one month of a vacancy occurring during the academic year in an unexpired term of office the Committee shall meet and recommend to the next Faculty Assembly a person to fill the unexpired term.

D. *General Regulations for Standing Committees*

1. Only voting members of the faculty may be members of committees.

2. Committees shall be properly represented of the different interests in the faculty.

3. Committees shall consist of not less than three nor more than five members, excluding ex-officio members. Under unusual circumstances the Assembly may increase a committee to a maximum of seven.

4. The Dean shall be ex-officio member of all committees, with the right to speak and vote.

5. Generally, no person who has served for more than one year shall be eligible for reelection to the same committee until two years have elapsed.

6. Each committee shall elect its own chairman and secretary annually.

7. Each committee shall make periodic progress reports to the Faculty and submit a written annual report.

E. *List of Standing Commitees*

1. *COMMITTEE ON COMMITTEES*

a. Functions

1) To nominate members of standing committees, as directed in this Statute.

b. Membership

1) The committee shall consist of five members of full professorial rank.

2. *COMMITTEE ON CURRICULM AND INSTRUCTION*

a. Functions

1) Carry on continuous review of current course offerings and refer to the appropriate departments suggestions (including those of students) made to improve curricular offerings by adding or deleting courses.

2) Review recommendations of the departments for the addition or deletion of courses. If approved by the committee, such recommendations shall be circulated to the entire faculty. If there is no objection within one month from any department or the Dean, the recommendation shall go into effect. If there is any objection the recommendation shall be discussed jointly by all affected parties, and if there is still no agreement, the recommendation shall be referred to a meeting of all departmental representatives for decision. If disapproved by the committee the recommendations shall be returned to the originating department for reconsideration. In the event of failure of the committee and the department to agree the question shall be referred to the Assembly.

3) Establish broad guide lines for the requirements for majors.

4) Study and recommend to the faculty for its consideration such programs as honors work, colloquiums, seminars, and advanced placement programs (the administration of these programs to be the task of the Scholastic Standing Committee).

5) Study the impact and effectiveness of national standardized tests in the light of our courses of study.

6) Study and recommend to the faculty for its consideration new developments in audio-visual aids and other media for improving teaching methods and techniques.

7) Study and acquaint the faculty with national symposiums, conferences, and educational programs, and encourage participation in such meetings.

8) Study and recommend general requirements for graduation from the College.

9) Study and acquaint the Faculty with new developments in higher education generally.

3. *LIBRARY COMMITTEE*

a. Functions

1) Act as liaison between the faculty and library staff.

2) Study and acquaint the Faculty with the resources and problems of the Pollack Library and those facilities of the Mendel Gottesman Library and other University libraries which have relationship to the curricular offerings of Yeshiva College in terms of the curricular offerings of the College.

3) Make recommendations for the improvement of library conditions in general and for smooth library operation.

b. Membership

1) The Director of Libraries and the Librarians of the Pollack and Gottesman Libraries shall be consultants to the Committee.

4. *SCHOLASTIC STANDING COMMITTEE*

a. Functions

1) Study and recommend to the faculty policies on: (a) scholastic standards and performances; (b) student absences; (c) the grading system; (d) minimal student performance and academic probation and dismissal; (e) disciplinary probation; (f) honors at graduation; (g) Dean's List; (h) student work load; (i) student employment and participation in extracurricular activities.

2) Aid the Office of the Dean in the implementation of these policies.

5. *WELFARE COMMITTEE*

a. Functions

The Welfare Committee shall concern itself with matters affecting the morale and the physical and material welfare of the faculty. As part of its duties it shall:

1) seek to ensure maximum benefits for the faculty and call to the attention of the faculty matters which in its judgment call for study and action.

2) study and recommend procedures to encourage and assist faculty members with (a) research (b) publications (c) participation in learned and professional societies.

3) hear and seek to resolve grievance of intra- and inter-relations of faculty and administration.

6. *STUDENT ACTIVITIES POLICY COMMITTEE*

a. Functions

1) Consider questions of policy for student activities submitted to it by the Yeshiva College Student Council and advise the Council of the result of its deliberations. Consenting advice by the committee on a given matter shall exempt those acting in accordance with this advice from the lodging of charges with the Student Activities Judiciary Committee.

b. Membership

1) No member of the Judiciary Committee may serve on this committee.

7. *STUDENT ACTIVITIES JUDICIARY COMMITTEE*

a. Functions

1) Receive and consider complaints and grievances concerning student violations of established policy on cocurricular activities, and violations generally of discipline and good taste in such activities. Any member of the faculty or administration may bring a complaint to this committee, which shall recommend appropriate action to the Dean.

2) Hear complaints by students regarding the infringments of or interference with their rights, privileges, and immunities in the sphere of student activities.

b. Membership

1) The committee shall consist of six members, all with equal vote, three to be chosen by the faculty and three to be chosen by the students.

2) The faculty members shall be elected for overlapping three year terms, as the members of all standing committees of the faculty are selected. No member of the Policy Committee may serve on this committee.

3) The student members shall be chosen for a one year term by the Yeshiva College Student Council in the Spring of each year for the following academic year. There shall be one senior, one junior, and one sophomore on the committee. No member of the Student Council may be a member of the committee.

4) At its first meeting each year the Committee shall by a majority vote choose a non-voting chairman from the ranks of the faculty.

c. Procedures for Hearing Complaints

1) Requests that committee hearing be held on a complaint or grievance shall be directed in writing to the chairman who shall be directed in writing to the chairman who shall bring them to the attention of all members of the committee within one week.

2) The committee shall commence formal action on a petition directed to it not later than three weeks after it has been filed.

3) In case of tie vote on any matter before it, the chairman of the committee shall so inform the Dean who shall attempt to compose the differences within the committee. Should the deadlock persist the Dean shall cast a ballot to break the tie.

8. *COMMITTEE ON THE AGENDA*

a. Functions

1) To assist the Dean and Secretary in preparing the agenda of Faculty Assembly meetings.

b. Membership

1) The committee shall consist of three members elected for a one-year term.

VI. AMENDMENTS TO THE STATUTE

A. This Faculty Statute may be amended by the following procedure:

1. Proposed amendments shall be submitted in writing to the Secretary of the Assembly in the form of a petition signed by at least five voting members. The Secretary shall duplicate and distribute the proposed amendment to the Faculty. The proposed amendments shall be placed on the agenda of the next meeting of the Faculty Assembly, provided that the petition is submitted at least two weeks in advance of the meeting.
2. The proposal shall be discussed by the Assembly, but a final vote may not be taken at this meeting. The amendment shall become the first order of business at the next meeting at which time the final vote may be taken.
3. A final vote shall be taken by secret ballot.
4. The amendment must receive the approval of an absolute majority of the voting members of the Faculty.

B. At least once every five years the Faculty Assembly shall elect a committee of five to re-examine the Faculty Statutes in the light of changing administrative and academic conditions. Recommended changes shall be submitted for consideration to the Faculty Assembly in

accordance with the procedure outlined in paragraph A 1.

C. Amendments accepted by the Faculty Assembly shall be submitted to the President for approval.

VII. GENERAL PROVISIONS

1. The details of this Statute shall be filled in by By-Laws, which shall be adopted and amended in the same way as amendments to this Statute, except that only a majority of those present and voting in the Faculty Assembly shall be required for adoption.
2. The latest edition of Robert's *Rules of Order* shall govern all meetings of the Faculty Assembly, of the departments, and of faculty committees, unless the Assembly adopts other rules of procedure.
3. The Statute and the By-Laws will become effective fifteen days after they have been accepted by the President upon recommendation of the Faculty by majority vote at a regular or special Faculty Assembly.

EMPLOYER'S EXHIBIT NO. 56

YESHIVA UNIVERSITY

YESHIVA COLLEGE

Upon recommendation of the Administration, Faculty and Student Body of Yeshiva College, the President approved the establishment of a Senate to govern the affairs of the College as specifically set forth below, and in accordance with the ideals and goals of this institution. Its intent is to share responsibility for the operations and improvement of the College among the groups that constitute the College.

This new development at Yeshiva College is the outcome of cooperation among Administration, Faculty and Students who comprise the College, and will rebound, it is hoped, to the best interests of the College and its traditions in its continued growth.

CONSTITUTION OF THE YESHIVA COLLEGE SENATE

(In effect June 1969, with later amendments as indicated, through October 72)

ARTICLE I. COMPOSITION AND ORGANIZATION

Section 1. The Yeshiva College Senate shall be composed of members of the Administration, the Faculty, the Student Body, and the Alumni as follows:

a) Administration: The Dean of the College, the Vice President for Student Affairs, the Registrar, and the Director of Admissions shall serve *ex officio*, and one other University academic officer designated by the President. (Amended 4/1/71)

b) Faculty: Eight full-time faculty members, with each rank represented, preferably two from each rank, elected by the Faculty Assembly for two-year overlapping terms, four each year. (Amended 5/27/71)

c) Students: Six students (three or four incoming Seniors and the remainder incoming Juniors) selected by the incoming Student Council, in the manner prescribed by the Yeshiva College Student Council Constitution, in accordance with section 2 of this article. (Amended 4/13/72)

d) Alumni: One alumnus appointed by the Yeshiva College Alumni Association. The Alumni Association may designate an alternate who shall serve only in the absence of the regular representative. (Amended 10/10/69, 6/15/70)

Section 2.

a) The sophomores chosen each year shall serve for two years, and the juniors for one year. (Amended 10/19/72)

b) Student candidates for the Senate shall be required to have at least a 3.000 cumulative academic average, and shall be required to maintain this average during their term of office. In all other respects, the election and tenure of the student members shall be governed by the regulations pertaining to other extracurricular activities.

c) All students who meet the above qualifications are eligible to serve on the Senate, with the exception of the President of the Yeshiva College Student Council, and the Editor-in-Chief of the Commentator.

Section 3. If any member resigns, or is found ineligible for office, the body which originally elected him shall elect a replacement to serve the remainder of the unexpired term of office. (Renumbered and rearranged 12/70)

Section 4. The faculty and student members of the Senate shall be selected in the Spring semester of each year, during the month of May, on a date to be determined by the Senate, and shall assume office immediately. The results of the elections shall be publicized to the Yeshiva College community. (Renumbered and transitory provisions omitted 12/70)

Section 5. The first session of the Senate each year shall be called by the Dean in June. Thereafter the elected chairman shall call the Senate into session at his discretion, but not less frequently than once a month during the school year. Meetings must be called when requested by a majority of the members. (Renumbered 12/70)

Section 6. At its first session each year, the Senate shall elect a Chairman and a Secretary. The Chairman shall be a student or faculty member and shall not vote except in the case of a tie. (Amended 5/28/70)

Section 7. The Secretary shall keep a record of all deliberations and of all reports and communications received by the Senate, and shall make the minutes public to the Faculty and to the Student Body.

Section 8. Each member of the Senate shall have one vote. (Amended 10/10/69)

Section 9. All policy decisions of the Senate shall be made by simple majority vote, and in all procedural matters the Senate shall follow Robert's Rules of Order.

Section 10. A quorum shall consist of twelve members, with at least two from each group (except the Alumni) being present. (Amended 6/15/70)

ARTICLE II. SCOPE

Section 1. The Senate shall have jurisdiction over the academic affairs of the college, as specifically set forth below:

a) Academic standards, admissions policy, curriculum and requirements for degree.

b) The establishment of new majors, and new courses. In the above matters, the Senate shall be required to consult with the Department and Division Heads involved before voting on the issue.

c) Determination of policy on: 1) standards of scholastic performance; 2) student attendance; 3) the grading system; 4) academic honors.

d) Discussion and disposition of all matters submitted to it by the Administration, the Faculty, and Student Council.

Section 2. The Senate shall make policy recommendations to the appropriate bodies on matters affecting faculty welfare, including appointments, promotions, leaves of absences, honors, and remuneration.

Section 3. All measures passed by the Senate shall be submitted to the President and the Faculty Assembly, both of whom shall have the power to veto, the latter by a two-thirds majority vote of its members present. Any measure not vetoed within fifty school days (classes in session) after its communication to the President and Faculty Assembly shall be considered adopted. A recommendation of the Senate may also be approved by affirmative action of the Faculty Assembly within the fifty day limit; such action shall be communicated to the President, and upon his approval the measure shall be effective. (Amended 12/18/69)

Section 4. The Senate shall have no jurisdiction over the administration of Academic regulations and the awarding of academic honors to students, i.e. admission, probation, dismissal, academic honors and prizes.

Section 5. The Senate shall have no jurisdiction over extra-curricular activities or the administration of student discipline.

ARTICLE III. COMMITTEES

Section 1. Two student members shall be appointed for one year by the Student Council to the following committees: Curriculum and Instruction, Welfare, Library, Student Activities Policy, Scholastic Standing, whose

present membership, organization and scope are described in the sections of the Yeshiva College Faculty Statute appended hereto. Student members of the Welfare and Scholastic Standing Committees shall participate in all activities of the committees except when they deal with specific individuals and cases.

Section 2. All Committees shall report to the Senate as well as to the Faculty Assembly.

ARTICLE IV. AMENDMENTS

Section 1. Amendments to the present constitution shall require a two-thirds (⅔) majority vote of the voting membership of the Senate. Notice of a proposed amendment must be included with the announcement of the meeting.

APPENDIX

Pertinent sections of the Yeshiva College Faculty Statute, included in accordance with Article II, Section 1:

2. *COMMITTEE ON CURRICULUM AND INSTRUCTION*

a. Functions

1) Carry on continuous review of current course offerings and refer to the appropriate departments suggestions (including those of students) made to improve curricular offerings by adding or deleting courses.

2) Review recommendations of the departments for the addition or deletion of courses. If approved by the committee, such recommendations shall be circulated to the entire faculty. If there is no objection within one month from any department or the Dean, the recommendation shall go into effect. If there is any objection the recommendation shall be discussed jointly by all affected parties, and if there is still no agreement, the recommendation shall be referred to

a meeting of all departmental representatives for decision. If disapproved by the committee the recommedations shall be returned to the originating department for reconsideration. In the event of failure of the committee and the department to agree the question shall be referred to the Assembly.

3) Establish broad guide lines for the requirements for majors.

4) Study and recommend to the faculty for its consideration such programs as honors work, colloquium seminars, and advanced placement programs (the administration of these programs to be the task of the Scholastic Standing Committee).

5) Study the impact and effectiveness of national standardized tests in the light of our courses of study.

6) Study and recommend to the faculty for its consideration new developments in audio-visual aids and other media for improving teaching methods and techniques.

7) Study and acquaint the faculty with national symposiums, conferences, and educational programs, and encourage participation in such meetings.

8) Study and recommand general requirements for graduation from the College.

9) Study and acquaint the Faculty with new developments in higher education generally.

3. *LIBRARY COMMITTEE*

a. Functions

1) Act as liaison between faculty and library staff.

2) Study and acquaint the Faculty with the resources and problems of the Pollack Library and those facilities of the Mendel Gottesman Library and other University libraries which have relationship to the

curricular offerings of Yeshiva College in terms of the curricular offerings of the College.

3) Make recommendations for the improvement of library conditions in general and for smooth library operation.

b. Membership

1) The Director of Libraries and the Librarians of the Pollack and Gottesman Libraries shall be consultants to the Committee.

4. *SCHOLASTIC STANDING COMMITTEE*

a. Functions

1) Study and recommend to the faculty policies on: (a) scholastic standards and performances; (b) student absences; (c) the grading system; (d) minimal student performance and academic probation and dismissal; (e) disciplinary probation; (f) honors at graduation; (g) Dean's list; (h) student work load; (i) student employment and participation in extracurricular activities.

2) Aid the Office of the Dean in the implementation of these policies.

5. *WELFARE COMMITTEE*

A. Functions

The Welfare Committee shall concern itself with matters affecting the morale and the physical and material welfare of the Faculty. As part of its duties it shall:

1) Seek to ensure maximum benefits for the faculty and call to the attention of the faculty matters which in its judgment call for study and action.

2) Study and recommend procedures to encourage and assist faculty members with (a) research (b)

publications (c) participation in learned and professional societies.

3) Hear and seek to resolve grievances of intra- and inter-relations of faculty and administration.

6. *STUDENT ACTIVITIES POLICY COMMITTEE*

a. Functions

1) Consider questions of policy for student activities submitted to it by the Yeshiva College Student Council and advise the Council of the result of its deliberations. Consenting advice by the Committee on a given matter shall exempt those acting in accordance with this advice from the lodging of charges with the Student Activities Judiciary Committee.

b. Membership

1) No member of the Judiciary Committee may serve on this committee.

EMPLOYER'S EXHIBIT NO. 58

February 18, 1974

To: Academic Deans & Directors

From: Joshua A. Fishman
Vice President for Academic Affairs

Re: Further guidelines re tenure

The recently approved "Revised Statement of University Policy on Tenure and Appointments" is indicative of the President's and the Board's commitment to faculty tenure as a fundamental feature of academic life at YU. It is appropriate at this time, therefore, that we also face one of the possible consequences of tenure policies, particularly in periods of financial difficulty, namely the possibility of over-extending tenure to the point that too few or no *new* appointbents can be made even when such are crucially needed. Clearly we must guard against this as judiciously and as consistently as possible.

Whereas some universities have adopted departmental quotas in this connection (e.g. CUNY's 50% policy) and others: departmental ranges (e.g. Union's "no less than 30% and no more than 70%" policy), YU has not worked out a set of guidelines to refer to in this area. It is quite important that such becomes available soon as part of each academic unit's procedures in processing tenure recommendations. Only in this way will it be possible to avoid the "locked-in" curricular and intellectual consequences that inevitably flow from inability to make new appointments.

Since this is a matter of some urgency as well as delicacy, I would like to ask you to establish an appropriate procedure at your school in order to examine this issue and in order to propose a set of guidelines in this connection, for review by University-wide bodes (some of which are already in existence and others which may yet be appointed), both at faculty and administrative

levels. I would particularly like to *stress* the need for getting your unit's recommendations to me by the end of March.

/s/ Joshua A. Fishman

JAF:em

cc: Deans Bacon, Gittler, Hoenig, Komar, Mirsky, Rabinowitz and Rosenthal (Green), Rabbis Faivelson, Besdin and Dr. Jaffé

EMPLOYER'S EXHIBIT NO. 59

YESHIVA UNIVERSITY

EXECUTIVE COUNCIL

July 15, 1971

Regulations Governing Staff Members Taking Courses at Yeshiva University

1. The general rule is that persons in a position to influence grades or examination results may not take courses. Specifically:

a) Secretarial, administrative or teaching employees of the University who work in or for a specific School may not take courses in that School, neither for a degree nor for credit. (Doctoral candidates may teach master's level courses in their school as part of a fellowship or teaching assistantship. Under State law, they may not teach other doctoral students.)

b) When taking courses in a division other than the one in which the staff member works, he must secure approval from his supervisor and from the dean or director of the School in which the courses are offered.

c) Persons listed in the catalogs of Yeshiva University as members of the University administration or as deans and directors are not permitted to take any courses for credit at Yeshiva University.

d) Persons holding the rank of assistant professor or above at Yeshiva University may not enter a Yeshiva University degree program after July 1, 1971.

e) Any doubtful instances are to be referred to the Executive Council.

2. Full-time employees are normally limited to taking 6 credits. A maximum of 9 credits may be permitted if the staff member's supervisor certifies that such a program of study would not interfere with the staff member's obligations to the University. Under no circumstances may a full load of 12 credits be taken.

3. Generally, no close relative of a faculty member (such as a spouse, child or sibling) may take a course taught by such faculty member. If that course is the only available section, and the course is required or recommended for the student's program, the appropriate dean may permit it, but only on a P/N basis. No close relative may sit on a committee evaluating a student.

4. Immediately after registration, the dean or director of each School will provide to the Registrar a list of all members of his staff taking courses in other divisions of the University and of all employees in other divisions who are taking courses in his School. The Registrar will bring to the attention of the Executive Council all instances of persons taking courses contrary to these regulations.

EMPLOYER'S EXHIBIT No. 60

Deans: Bacon, Gittler, Hoenig
Jaffe, Mirsky, Rosenthal
(Green) Vice Pres. Socol

Emeritus Status

Dr. J. A. Fishman
Vice President, Academic Affairs

President Belkin has approved the following recommendation of the Committee on Academic Procedures:

> A distinguished member of the full time, tenured Yeshiva University faculty who retires with the rank of Professor, may be recommended by his department, division or school, with documentation, for the title of "Professor Emeritus". Such recommendation requires the approval of the faculty member's dean and the Office of the President. The title Emeritus extends privileges such as catalog listing, attendance at appropriate University's functions, and use of library facilities. Emeritus Professors may be invited to lecture at or to advise the University as necessary. The title Emeritus should be reserved for the most distinguished faculty only and should not be thought of as a routine procedure upon retirement.

Please notify faculty accordingly so that the recommendation and approval processes can be appropriately implemented.

EMPLOYER'S EXHIBIT No. 61

WURZWEILER SCHOOL OF SOCIAL WORK
YESHIVA UNIVERSITY

INTRODUCTION TO SELF STUDY REPORT

Prepared by Dr. Solomon H. Green

The Self Study conducted by the faculty and staff of the Wurzweiler School of Social Work was completed by June, 1973, which marked the end of the academic year.

It is, of course, erroneous to speak of the "completion" of our School's self study; in the course of our faculty's work within the School, there has always been an ongoing process of self study and evaluation. Nevertheless, the 1972-73 self study process was a special effort by our faculty to give focused attention to where we have been, where we are now, and where we think we should be in the future. This represents a significant step in the ongoing assessment process which has led to an educational program for social work practice and philosophy which we are proud to declare as second to none.

When the Wurzweiler School of Social Work was founded it was given the charge by Dr. Belkin that it be a professional school of social work; and that it have a special commitment to preparing students for Jewish Communal Service.

From the beginning what was important was the School's admissions process, which reflected a philosophy of social work education. Other areas valued by the faculty early in the School's history and which continue to influence the School's policies and programs are:

The centrality of the student in the educational process;

The small size of the School (this was an *idea* rather than the result of circumstances);

An atmosphere of "caring" in the School;

Close student-faculty relationships;

The "idea" of close intimate relationships between School and agencies and students;

The "idea" of small class size;

The "idea" that teaching and learning is a two-way process in which investment of student was important, and so was the investment of the faculty *with* the student. Therefore, in parallel fashion the worker-client relationship is important;

The "idea" of student input;

The "idea" of flexibility—that we could make special arrangements with and for individual students;

The "idea" of using current case material from student work;

Not "content," but the dynamic interchange between student and faculty, and between students;

The "idea" of emergent learning as it comes through dynamic interchange and interaction.

These areas were of great concern to faculty. They reflected a philosophy of social work education. *Faculty seemed more concerned with areas that were related to an attitude about social work education, or the atmosphere in which social work education could take place.* Knowledge was never disparaged, but faculty was interested in the student's "becoming" rather than what he learned.

Initially our Jewish purpose was seen as a "backdrop." Jewish School Philosophy was taught as a factual course. Biblical and Talmudic sources were used to illuminate issues relevant to social workers. Subsequently, the Jewish purpose was recognized to be an intrinsic component. Confrontation with Jewish identity was part of the process of becoming a social worker in our School. The purpose of the Jewish Social Philosophy course became that of helping the student to uncover the ethnic and philosophic components of the Jewish group and to look for his own ethnic and philosophic religious foundations in the process. The fulfillment of this purpose is possible whether the student is Jewish or not, just as

there is a need to look at the interaction between various ethnic components and to develop awareness of their importance in the helping process and in the struggle to develop self-awareness and ethnic identity.

The Jewish component was expressed in the whole of the curriculum. This component is central for work in any setting where Jews are clients.

This outline of our educational philosophy and purpose reveals the faculty's continuous efforts to make meaningful and functional the early charge given to our School by Dr. Samuel Belkin.

Report on the Yeshiva University

WURZWEILER SCHOOL OF SOCIAL WORK

SELF-STUDY

Conducted During Academic Year 1972-73

InSpring, 1972, Dr. William Rosenthal, our Dean, requested that Dr. Solomon Green, Assistant Dean, organize and develop the process and procedures for the W.S.S.W. faculty to conduct a Self-Study. This undertaking was based upon the request of the Yeshiva University Executive Council, that all schools and departments of Yeshiva University initiate and conduct a self-evaluation. On May 22, 1972, Dr. David Mirsky conveyed the following recommendations:

"1. The Dean or Director of every unit in the University should be requested to organize a self-evaluation within his unit at the beginning of the academic year.

2. Among the points to be covered in this self-evaluation should be: An assessment of strengths and weakness; directions which the unit feels it should follow; plans for the development or discontinuation of programs and/or activities; projections for resources; financial and human, which will be af-

fected by these plans; areas which require university-wide decision and deliberation.

3. The sub-committee should gather the self-evaluations from all of the units, render regular progress reports to the Executive Council, and make every attempt to have a first draft of a total self-evaluation completed by the end of the next academic year."

The Wurzweiler School of Social Work faculty, after it had opened the academic year in the Fall of 1972, and organized its classes, and assigned and guided their students to their field instruction placements in the numerous social agencies throughout the City of New York, its suburbs, and in the Greater Metropolitan area of New Jersey, then organized to meet the charge of the Executive Council that a self study be conducted by the School.

In preparation, available reports of self studies done by other institutions of higher education, and the accreditation reports prepared by the Wurzweiler School of Social Work faculty in 1958-59, and in 1968-69, for the Council on Social Work Education Committee on Accreditation were studied.

Consultation was sought from Drs. Aaron Beckerman and Joel Sacks of the Wurzweiler School of Social Work faculty, on developing appropriate methods and procedures for the self study. The faculty then became deeply engaged and committed to this evaluation process.

At special meetings to plan the details of the self study, in October and November, 1972, the faculty as a whole explored the meaning of the self study, its usefulness to Yeshiva University, the demand it would make upon the faculty, and the implications of the self study for present and future work. The value of the self study was affirmed, the methods to be used and the areas to be studied were seen as emergent, as would be the findings, the conclusions, and the plans that would be projected for the future.

The months of December, 1972 and January, 1973 were used by a small faculty committee to organize and recommend *Self Study Procedures.* Seven committees

were developed, which began to meet regularly each week.

All members of the faculty should be commended for the demonstrated dedication and commitment to the Self Study Process. Ongoing teaching, faculty advising and agency liaison responsibilities were heavy, administrative demands required time and atention to insure the *ongoing* conduct and quality of the educational program of the Wurzweiler School of Social Work.

The faculty never fully achieved its goal of maximum involvement of alumni, field instructors and students. Nevertheless, field instructors were consulted on future evaluation procedures of agency field placements, students regularly attended meetings of the Committee on Student-Faculty Relationships, and participated meaningfully and constructively in the faculty spring evaluation sessions. (It should be noted as illustrative of the ongoing assessment activities *outside* of the Self-Study framework, that students and faculty—meeting during the year—conceived, organized and sponsored a special meeting between the first year students and the admitted students of the 1973-74 entering class.)

Special illustration of the influence of self study upon ongoing work was the deliberate effort of the Wurzweiler School of Social Work Doctoral Committee to merge its own ongoing evaluation of its educational program (ending its fourth year) with the self-study process.

In May, 1973 all seven committees submitted their final reports. These reports summarized the self study process of each committee, the issues that had been raised and discussed, and the recommendations to the faculty.

Four days were set aside during our spring evaluation time for discussion of the various self study recommendations. Students were present for the entire first day to talk with faculty about relationship of students to governance of the School; to discuss changes in the second year curriculum and to help in the deliberations of the work of the Admissions Committee.

SELF STUDY COMMITTEE REPORTS:

1. *Committee on Student-Faculty Relationships*

There is an extensive network of student-faculty relationships by which communication takes place between "The School" (faculty decisions) and the students: through their participation in their own student organization; through working jointly with faculty in ongoing study and assessment of the policies and programs of WSSW. This faculty-student relationship also includes the easy access to administrative offices, classroom teachers, and to faculty advisors.

For example: Through their own activity and through representation of their views to their faculty advisors, extended program students, were instrumental in helping faculy re-assess the order and timing of the educational program so it would be even more effective for this group of students.

Faculty noted the policy is to stay with assigned advisor, but changes have been made in the past. In the Fall, 1973, student interest in the process of how assigned advisors can be changed will be studied to develop appropriate guidelines. A request for a Student-Faculty Senate was submitted. The advisability of a new organization will be explored as a subject for discussion in the Fall. Such a proposal will be placed before the whole student body for discussion prior to meetings of faculty and students on this plan.

2. *Committee on Admissions*

A review of the admissions process by both the faculty and the students resulted in the following recommendation:

1. Students will continue to sit in *advisory* capacity to Committee on Admissions.
2. That we help students to meet with the next year's incoming class in the Spring, prior to academic beginning (as initiated in 1972-73).

3. That we experiment with group interviewing; that we continue enlisting cooperation of alumni for admission interviews.
4. Accepted candidates who request that we hold place for them for the year after, shall be required to contact WSSW by December 1st of their intention to enter the following September.
5. The principle emerged that student diversity has to be consistent with the special mission of this School and that in view of this mission there is and ought to be a degree of self selection involved in determining who applies here.
6. Each faculty member will continue to do a minimum of 10 admission interviews.
7. Admission interviewing procedures will be evaluated.
8. We will continue our policy of "Rolling Admissions."
9. That an alumni representative be on the faculty admissions committee.
10. The faculty decided to accept 100 incoming students to be distributed among the various sequences as follows: 40 caseworkers, 40 group workers, 10 community organization and 10 extended program students.

3. *Committee on Outside Relations*

The following principles were enunciated:

a) That intra-university linkages receive highest priority; e.g., The Colleges and A.E.C.O.M.

b) That we be guided by the educational purposes of relations with outside" agencies, institutions, and organizations to maintain our focus on education for the practice of social work.

c) That our relationships be appropriate to the resources available to WSSW.

d) We recognize that our relationships are to be guided by our threefold purposes as a school of social work: Teaching, Service, Research.

e) We are interested in institutional arrangements to expand and to build relationships.

f) A faculty member should monitor our outside relations, coordinate these contacts.

Faculty will examine deepening our relations with WSSW field instruction agencies.

The faculty agreed to focus on the following relationships in the coming year:

1. To discuss and develop the interest of the Erna Michael College and the Stern College of Yeshiva University to establish a continuum in social work education combining the undergraduate and graduate educational programs

   This connection with our undergraduate colleges was seen as related to

   a) University recommendations

   b) supporting and furthering our Jewish mission, and

   c) recruiting of committed persons

2. To continue our interest in the relationship under exploration with AECOM, which has the merit of

   a) meeting University recommendations for linkages between schools

   b) exploring and developing a track of social work for health professionals

   c) to meet our responsibility for service to the general community

3. To continue and to deepen our relationship with the National Jewish Welfare Board which has the merit of

   a) enhancing our interest in preparation for service to the Jewish community, and

   b) furthering our interest in the development of social group work as a "method."

It was recognized that these three linkages must be ongoing, but may be affected by other School priorities for use of our resources and purpose.

The faculty suggested we consider other special relationships to J.O.T.S., with the Alumni Organization, and to the Federation's Wiener Foundation Committee. Special attention will be focused upon "The Institute for Jewish Survival through Jewish Communal Institutions," initiated by our Dr. Lloyd Setleis.

4. *Committee on Field Instruction*

Faculty will use the criteria forms prepared for evaluating field placement agencies ongoing in our work with old and new social agencies; to engage agency executives and field instructors for mutual evaluation.

Agency field instructors who have made a commitment to one social work method of providing an agency service (i.e., casework) *may* supervise our students who are desirous of developing skill in a different method (i.e., group work). Casework field instructors who will be supervising group workers will receive faculty guidance. A significant discussion of the "nature of our social work business" in a social agency: What is "the service" students are expected to provide? What is the psychology that different service provides; what does it generate in the social worker and in the client? The "social" aspect of social work is reflected in the dynamic tension between what the community needs (through the sponsorship of the social agency) and what the client needs from the social agency, for the client is seen as experiencing a social need personally felt. This brief outline of a discussion is included in this Self Study Report to reflect

the faculty's recognition, 1) of existing philosophical differences and 2) faculty's recommendation that time be devoted to substantive issues. The School policy was reaffirmed that students shall be placed in a different agency field placement in each of the two years. In some cases, if the educational purposes of the student and the School are best served, a student may be allowed to spend two years in the same agency.

5. *Committee on Administrative Procedures*

The deliberations of this report focused upon how faculty shared in the governance of the School; the appropriate use of the collective time of faculty (in committee work and in faculty meetings); and upon the administrative structure facilitating achievement of the School's objectives.

1. Decisions reflected strong interest in faculty (in-service) development, and in use of time for discussion of substantive educational and professional issues and concerns. The number of faculty meetings would be reduced, and would focus on procedural issues requiring full faculty deliberations; faculty sessions would be devoted to substantive matters dealing with our profession, social work education, and Jewish matters of interest.

2. Structure for administering the School brought two suggestions for further study:

A) That we develop a structure to deal with issues, recommendations, and decision-making through different organized segments of the faculty, *i.e.*,

By the Personnel Committee

By the Dean alone

By the Dean and the Cabinet (a group composed of elected faculty members plus the Assistant Dean).

By the Dean and the whole faculty assembled.

B) A second proposal was for administration to be organized in the following manner for the purposes noted:

1. The Personnel Committee
2. The Cabinet—concerned with educational objectives to facilitate communication to, between, and among faculty

   To recommend and establish appropriate committees for work to be done
3. Faculty development: especial attention to the system of mentoring individual faculty members
4. Faculty meetings to deal with administrative matters and for dealing with substantive matters, agenda making, policy development and decision-making
5. Faculty-student educational relationships concerned with work of faculty as faculty advisors, the processes of student assessment, the work as liaison with agency placements and field instructors
6. A committee structure concerned with each of these three interests of the School:
   a. the alumni
   b. field instruction
   c. student organization

Faculty agreed to the recommendation that we increase the size of the entering class of September, 1973, recognizing that it would make its educational task more difficult, because this would make for larger classes, more sections for each course and increase the use of more part-time faculty. There was brief exploration of criteria to guide the appointment of part-time instructors, and for the assignment of teachers to courses.

6. *Committee on Curriculum*

In an earlier meeting with students, faculty discovered that the entering second year class did not have any opinions about the established second year curriculum. They did, however, reveal much understanding about the educational objectives and processes of WSSW's program.

Faculty discussion clarified curriculum concerns:

1. Students will begin to work on their investigative essays in their 3rd semester for completion and submission before the end of their 4th semester.
2. The present 2nd year curriculum was evaluated, resulting in the following:
   a) the practice course is to be a one-year course—because experience supports the view of our students that practice should receive ongoing study
   b) the third semester will be organized as follows:

      Practice (Method) course

      Social Research II

      Psychosocial Pathology

      Jewish Social Philosophy

      Electives: Essentials of Social Group Work

      Essentials of Social Casework

      Essentials of Community Organization

      Administration
3. Further discussion of other electives will be held
4. Faculty reaffirmed the policy against auditing
5. The 1973-74 academic calendar was approved.

   The teaching schedule will be distributed during the summer, now that faculty members have been seen and commented on the proposed schedule.

7. *Committee on Doctoral Program*

The Doctoral Committee was constantly engaged in the process of assessing the objectives and the program of study leading to DSW degree, at its regular meetings throughout the year.

Stimulated by the self study, two innovations were recommended, and approved:

1. Beginning September, 1973, a limited number of part-time students would be admitted to the following two courses: Jewish identity and Urban Crisis. Part-time students would have all the desired qualifications required of full-time students. It was recognized this would assist practitioners to return to full-time study.
2. Two new courses would be introduced to be required of all students, though to be given as electives for the present entering second year DSW class:
   a) A study of the literature on research in social work
   b) History of social work
3. June, 1973, records the presentation of this program's first DSW degree to Dr. R. Schindler of Ramat Gan, Israel.
4. The Doctoral Committee reaffirmed the integrity of the first year program as it is now structured. The 1972-73 class was proof of the usefulness and validity of the educational program as presently organized.
5. There was to be further study of the value and structure of the Colloquim.

SUMMATION:

It is our opinion that through concentration on substantive matters and upon procedural concerns, the self study program effectively enabled the faculty to develop

a new sense of its togetherness in objectives and in commitment. The self study process was particularly helpful in becoming another vehicle by which faculty members could relate to the new administrative leadership of the Dean and to feel itself again reaffirming agreement of "why we are here" and "what we are here to do."

Faculty and Staff should be commended for the energy and devotion and time which each gave to the process of this self study.

EMPLOYER'S EXHIBIT NO. 63-A

[EMBLEM]

YESHIVA COLLEGE

SCHEDULE OF COURSES

1973-1974

GENERAL COMMENTS

1. This is the schedule of courses for both the fall and spring semesters. Please keep your copy since you will not receive another one for spring registration. You are advised to bring the schedule with you when you come to register, otherwise, you will be handicapped during your registration processing.
2. The college reserves the right to cancel courses or sections. There will be, of course, no charge for resulting program changes.
3. Instructor assignments are tentative and subject to change.
4. UNDER NO CIRCUMSTANCES WHATSOEVER WILL THE DEAN GIVE PERMISSION TO TAKE MORE THAN A TOTAL OF 17½ CREDITS PER SEMESTER. (That includes credit for courses the student takes with permission of the college at another school of Yeshiva University or outside the University).
5. No notion is made as to whether a course has prerequisites; these are listed in the catalog. STUDENTS ARE RESPONSIBLE FOR KNOWING ALL THE PREREQUISITES OF COURSES. Students should carefully consult both the catalog and its supplement before registration.
6. No credit is given for an elementary course taken after completing an advanced one. If you have any doubts about the application of this rule, file a Request Form for information in Room F 125.
7. Information concerning room numbers will be made available when school begins.
8. The credit value of each course is given following the course title.
9. The following system is used to designate sections: the first digit determines the day (Sunday 1-Friday 6), the second digit the first hour of meeting, the third digit the number of sections offered at the same hour. Thus, the figure 252 for example means the first class meeting in the week is on Monday (the number ignores the fact that the class may also meet on another day); the first hour the class meets on that day is sometime between 5 and 5:55 (thus, a class beginning on Monday at 5 or 5:30 or at 5:45 would still carry the number 5 as its second digit); and that this class is the second section of the course scheduled at the same time. Courses for which hours are to be arranged are designated with code number 901.
10. A student may not register as a Premedical-Predental major in his senior year without the written permission of the Premedical-Predental Advisor. Students who are Premedical-Predental majors cannot drop this major in their senior year without prior approval of the Premedical-Predental Advisor. All courses required for a Premedical-Predental major (see catalog) must be taken at Yeshiva College.

NOTES ON COURSES

1. All students above the freshman year may choose one elective each semester to be graded by P or N. Regulations regarding this system will be found in Form T28.1, available at the Office of the Registrar
2. Unless special permission is received in writing from the Dean, FRESHMEN AND SOPHOMORES MUST FOLLOW THE REQUIRED COURSES OF STUDY, AS LISTED IN THE CATALOG (e.g. completion of English 1.1 and Speech 1 in the freshman year and English 3-4 in the sophomore year). In addition, students required to take History 71-72 must register for it in their sophomore or junior year.
3. No senior will receive credit for English 1.1, 3-4, or Speech 1. Any senior who has postponed taking these lower division required courses until his last

year has to count the courses in his work load but will not receive any credit for them, although they count in his average. Seniors are also permitted to take these courses at any accredited college and will receive full credit for them in that case. They must, of course, follow established procedures for applying for outside work. (Secure Form P10 from the Office of the Registrar.)

4. Two terms of Health Education are required for graduation for all students and must be taken in the first year. STUDENTS WITH HANDICAPS ARE NOT EXCUSED FROM HEALTH EDUCATION REQUIREMENTS.

5. Several courses given at YU's graduate schools are open to seniors. The regulations governing such courses are given in Form P3.2, available in the Office of the Registrar. If you wish to register for such courses, you must first secure permission on Form P3.1. If the course is given during YP, EMC, or JSS hours you must also have written permission of the dean or director of your school to take the course.

6. New Programs:

   Yeshiva College proudly announces that the New York State Education Department has approved three new programs submitted to them:

   a—BA/MA program in Chemistry. Prerequisites for admission:

   3.0 overall average; 3.4 in Chemistry and completion of Chemistry 16 and approval of the BA/MA Committee.

   b—BA/MA program in Mathematics. Prerequisites for admission:

   3.0 overall average; 3.4 in Mathematics and completion of Math 24 and approval of the BA/MA Committee.

   c—BA/MA program in Physics. Prerequisites for admission:

   3.0 overall average; 3.2 in Physics. Normally, junior status and approval of the BA/MA Committee. Students who expect to apply for the BA/MA in Physics are urged to take Physics 51R, 52R-L, 53R-54R.

   Several additional joint BA/MA programs are in preparation. A more detailed description of the various BA/MA programs will shortly be available to students. Students eligible should apply on Form P3.3. We have also applied to the New York State Education Department for permission to introduce a new major in Information Science. Approval is expected before the beginning of the Fall semester. The Schedule of Courses lists several courses towards this major. A more detailed description will soon be made available to students.

7. New Courses and Significant Course Changes:

   Biology 26 *Current Topics in Biology* (2-0-2) Prerequisite: see below

   In the fall semester this course will be devoted to developmental biology. Prerequisite for admission Bio. 1R-2R, 1L-2L; 4 additional credits in biology including Bio. 12 (Development Biology) with at least a grade of B. Permission of the Instructor is required.

   French 13 *The Theater of Revolt* (3-0-3) Prerequisite: French 4, 6 or 8

   Representative examples of contemporary French drama which rejects previously accepted language, and ideas in an effort to redefine the condition of man. Included are plays by Sartre, Ghelderode, Adamov, Audiberti, Becket, Ionesco, Arrabal, and Genet.

   French 47 *The Theater of Revolt in Translation* (3-0-3) No prerequisite.

Same as 13 but taught in English and works to be read in translation.

French 20 *Literature of Existentialism* (3-0-3) Prerequisite: French 4, 6, or 8

A close study of works of literary merit (essays, dramas, novels), which, from before W.W. II to the contemporary period, form the important body of Existentialist literature in France. After a brief survey of literary antecedents such as Pascal, the course will focus on selected works of S. de Beauvoir, Camus, Le Clézio, Malraux and artre.

French 48 *Literature of Existentialism in Translation* (3-0-3) No prerequisite.

Same as 20 but taught in English and works to be read in translation.

Information Science *1 Discrete Mathematical Structures* (3-0-3) Prerequisites: none Co-requisite Mathematics 3.1

Representation of pure numbers by fixed point, binery coded decimal, and floating point systems; coding of alphabetic and special characters; data structures, linear lists, trees, linked lists; graphs; groups; networks; Boolean algebra; logic; flow charts. Open to all students including those who took Math 50 and/or 52.

Information Science *3 Computer Architecture and Machine Language Programming* (3-0-3) Prerequisite: Computer Science 1 or advanced standing in Math (students who completed Math 4.1 or 5.1, or Math 10).

Components, organization and capability of stored program digital computers; assembly language programming for IBM 1130, for more advanced students, BAL/360 and/or XDS meta symbol instruction will be available; monitor system.

Information Science *4 Programming in Procedure Oriented Languages* (3-0-3) No prerequisites. Equivalent to Math 50; therefore open to all students except those who took Math 50.

Higher level programming languages; Fortran IV and PL/I; Applications to statistics, non-numerical data processing, or other topics of interest to the class.

Information Science *11, 12 Numerical Analysis* (3-0-3) Prerequisite Math 50 and/or 52; co-requisite IS4.

Numerical solutions of algebraic equations; approximation of functions; numerical integration, numerical solutions of difference equations and ordinary differential equations. Systems of linear algebraic equations, eigenvalue and eigenvector problems; numerical solutions of partial differential equations.

Information Science *21 Data Bases and List Processing* (3-0-3) Prerequisite: Computer Science 3, 4.

Data organization for computer processing; data types, fields, records, files arrays, trees, lists; file processes, searching, updating, ordering, sorting. Open to students who took Math 50 and/or 52.

Physics 51R *Mechanics I* (5-0-5) Prerequisite: Math 1.1-2.1 or equivalent calculus course in high school. Equivalent to present 1R and part of 11.

Five periods of lecture of which two are devoted to problem solving.

Physics 52L *Physics Laboratory* (0-2-1) Prerequisite 51R, corequisite 52R

This course will be offered in the spring only and will consist of two hours of Lab.

Physics 52R *Electricity and Magnetism* (5-0-5) Prerequisite: Physics 51R

Five periods of lecture of which 2 are devoted to problem solving. This course is equivalent in content to present Physics 2R and 13.

Physics 53 *Mechanics II* (5-0-5) Prerequisite: Physics 52R and L

Five periods of lecture of which two are devoted to problem solving. Equivalent in content to remainder of present 11 and 12.

Physics 54 *Electricity and Magnetism II* (5-0-5) Prerequisite: 53R

Five periods of lecture of which two are devoted to problem solving. Equivalent in content to present 14 and part of 17.

Physics 150.1, 150.2 *Physics of Life Systems*

Human actions have environmental reactions governed by the basic laws of nature. We apply the conservation laws of physics in their simplest form to the conservation of our natural resources and environment. We estimate the equilibrium level of human activity in realms governed mainly by principles of physics; the production, transport, and absorption of energy, information, and materials. The possible impacts on society of new physical technologies are evaluated; nuclear fusion and fission, integrated circuits and other microminiature computer elements, space and sea exploration. Cost and value estimates of programs for environmental control are developed; waste disposal, weather modification, earthquake engineering, floor control. Projects matched to the level of the student will be part of the program.

EMPLOYER'S EXHIBIT No. 65

STERN COLLEGE FOR WOMEN

SCHEDULE OF COURSES

1973-74

[EMBLEM]

GENERAL COMMENTS

1. This is the schedule of courses for both the Fall and Spring semester. Please keep your copy since you may not receive another one for Spring registration. You are advised to bring the schedule with you when you come to register; otherwise you will be seriously handicapped during the registration process.
2. The college reserves the right to cancel courses or sections. There will be no charge, of course, for resulting program changes.
3. Instructor assignments are tentative and subject to change.
4. STUDENTS ARE RESPONSIBLE FOR KNOWING ALL THE PREREQUISITES OF COURSES.
5. No credit is given for an elementary course taken after completing an advanced one.
6. Room numbers will be posted on the first day of classes.
7. The credit value of each course is given following the course title.
8. Most students above the freshman year may choose one elective each semester to be graded by P or N. Regulations regarding this system will be found in Form T28.2, available at the Office of the Registrar.
9. Club Hour is Wednesday 3:00-3:50. No classes are scheduled.
10. Jewish Studies requirements can be met by courses in Hebrew; History 71 and over; Philosophy 30 and over; Judiac Studies courses; all courses preceded by #.
11. A special section containing information about new courses is included in this schedule. Please consult it before registering.

12. Stern College Students may, with permission, take courses in other units of the University—Teachers Institute for Women, Ferkauf Graduate School, Bernard Revel Graduate School, Belfer Graduate School. Copies of these schedules are available.

NEW COURSES, 1973-74

(The first number in parentheses is the number of lecture hours, the second is the number of laboratory hours, and the third is the credit value each term.

Art 41—Art for Teachers (2-0-2) Prerequisite: Permission of the instructor Designed to acquaint teachers with the diverse roles of art in the learning experience. Opportunities are offered for expanding esthetic awareness. Important concepts in art and in art education. Art as part of the curriculum and as independent activity; teaching methods, procedures and techniques.

Hebrew 32—Peretz, Mendele, Sholem Aleichem (3-0-3) Prerequisite: Hebrew 9-10 Lectures and readings from representative works.

Hebrew 33—Shimoni, Schneur, Kahan (3-0-3) Prerequisite: Hebrew 9-10 Lectures and readings from representative works.

Hebrew 82.1—Haggai, Zechariah, Molachi (3-0-2) Prerequisite: Hebrew 5-6 Intensive consideration of text and commentaries; historical background and literary forms

Hebrew 94—Isaiah (3-0-3) Prerequisite: Hebrew 5-6 Intensive consideration of text and commentaries; historical background and literary forms.

Hebrew 98.1—Ezra and Nehemiah (3-0-2) Prerequisite: Hebrew 5-6 Intensive consideration of text and commentaries; historical background and literary forms.

History 91—History of Messianic Movement (3-0-3) History of various messianic movements among the Jewish pepole from first century AD tc nineteenth century.

History 96.3—History of Modern Israel (2-0-2) Social, economic and cultural aspects of Israel from 1948 to present; emphasis on resources, political movements, foreign affairs, population and education in Israel.

Philosophy 48—Philosophy of Yehudah Halevi (3-0-3) Prerequisite: Introductory course in Jewish philosophy. Analysis of the Hebrew text of the *Kuzari*, with particular reference to Halevi's views on the Jewish religion, Jewish history, the people of Israel and the pre-eminence of the land of Israel. An examination of Halevi's philosophy and its relevance to contemporary Jewish life and thought. For students on the intermediate and advanced levels in Jewish studies.

Philosophy 61, 62—Honors Seminar (3-0-2) Open only to Dean's list students on the advanced level. Topic for 1973-74 Halachik Process: History and Dynamics. Study of the history and jurisprudence of Jewish Law with emphasis on the systematic treatment of legal sources.

Philosophy 75.1—Liturgy (3-0-2) Analysis of the history, philosophy and laws related to Jewish prayer and prayer books. For students on the intermediate and advanced levels in Jewish studies.

Philosophy 90.1;90.2—Legal Writings of Maimonides (3-0-2) Selections from the legal codes and commentaries of Maimonides. Analysis of the legal methodology and philosophy of law emerging from his works. For students on the advanced level in Jewish Studies.

Political Science 16—Methodology in Social and Political Research (3-0-3) Prerequisite Political Science 1.1 or 2.1 or permission of instructor. Elements of scientific methods of research in social science for

students to undertake individual research: experimental inquiry, typologies, definitions, hypotheses and deductive method; isle of statistics.

Political Science 17—Political Parties, Voting and Interest Groups (3-0-3) Prerequisite: Political Science 1.1 or 2.1 Role of interest groups in the American political system: emphasis on group strategies, methods used by parties to capture identifiable voting blocs, relationship of interest groups to the pluralism of the American political system

Psychology 18—Psychology of the Handicapped (3-0-3) Prerequisite: Psychology 1 Physical handicaps, and the psychological problems they raise; the rehabilitative processes and their implications.

Sociology 12—Sociology of Health (3-0-3) Social concept of disease, disability and aging, social distribution and etiology of illness; social organization of health services: physicians, para medical personnel, hospitals, community services, nursing homes; role of the patient; medical costs and contributory services of payment; role of government.

Sociology 39—Sociology of Middle East Nationalism (3-0-3) Prerequisite: Sociology 2 A sociological analysis of the major nationalisms in the contemporary Middle East: Arab, Palestenian, Jewish; their social sources and their effects on the social and political structures and upon the Middle East conflict. Ideological change and the potential for accommodation.

Sociology 55—Public Opinion and Mass Communications (3-0-3) Prerequisite: Sociology 2 Public opinion in modern society—the social contribution of knowledge; pseudo-events and pseudo-information; public opinion and democracy; personal influence; communication and persuasion; propoganda; political participation and mass media; pollsters.

SCHEDULE OF COURSES 1973-74 STERN COLLEGE FOR WOMEN

4

DEPARTMENT ART

Fall	Spring	Section	Hours	Instructor	Prerequisite
1.1 History of Art-2	2.1 History of Art-2	K	T Th 11-11:50	Fall Mrs. Fleminger; Spring: Prof M. Chernowitz	
		M	T Th 2-2:50	Fall ditto; Spring Miss M Gittler	
26 American Art-2	26 ~~Repeated~~-2 20 Modern Art-2	L	T Th 12-12:50	Fall Mrs. Fleminger; Spring Prof M Chernowitz	Art 1 or 1.1
51 Studio Art-1	41 Art for Teachers-2	N	Th 2:50-4:30	Fall Mrs. Fleminger; Spring Miss M. Gittler	Permission of Instructo
53 Advanced Studio Art-1	52 Studio Art-2	N	Th 2:50-4:30		
	54 Advanced Studio Art-1	N	Th 2:50-4:30	Mrs. Fleminger	Permission of Instructo

BIOLOGY
Choose one lecture and one lab section

1 General Biology-4	2 General Biology-4	C	M W 11	Fall Dr. Goodman; Spring Mr. Altman	
		K	T Th 10:30-11:20	Mr. Altman; Spring Dr. Friedland	
		F	M 2:00-~~3:40~~ 2:50	Fall Dr. Goodman; ~~W 2:00~~ W 2:00 Spring Mr. Altman	
1L General Biology Lab-0	2L General Biology Lab-0	D-E	M W 12-1:40	Dr. Rosoff	
		G-H	M 4:00-7:20	Fall Dr. Goodman; Spring Dr. Goodman	
		L-M	T Th 12-1:25 + time tba	Fall Mr. Altman; Spring Dr. Friedland	
		N-P	T Th 3-4:40	Fall Mr. Altman; Spring Dr. Goodman	
		P-Q	Th 4:30-8:00	Dr. Grant	

EMPLOYER'S EXHIBIT No. 78

[SEAL]

YESHIVA UNIVERSITY

500 West 185 Street • New York, N. Y. • 568-8400

Vice President
for Business Affairs

July 18, 1974

At the last meeting of the Academic Council of Graduate Schools, which was held on June 3, 1974, the Graduate Council decided that it would constitute itself as a committee of the whole to assist in the development of institutional academic priorities and in the development of guidelines for the allocation of University resources in accordance with those priorities. Several Graduate Council Faculty Members expressed their willingness to begin this important task during the Summer. It was also suggested that the Undergraduate Council participate as well in this undertaking.

Since the Undergraduate Council will not meet again until the Fall and since it is desirable to proceed without any delay, I, as Chairman of this Committee, with the concurrence of Rabbi Groff, Chairman of the Undergraduate Council, am sending this letter of invitation to the first meeting of the Committee to all members of both the Undergraduate and Graduate Councils. The meeting will take place on Monday, August 12, at 10:30 a.m. in the 12th Floor Conference Room in the Belfer Graduate School of Science Building. I do hope that you will find it possible to attend so that we can begin our deliberations with as many Members of both Councils present as is possible.

Please call my office as soon as possible to indicate your ability to attend.

I believe that the formation of this joint Undergraduate and Graduate Council Committee, as was suggested by

members of the faculty of the Graduate Council, is a very positive step that will further greater co-ordination and inter-relationships within the schools of the University and will serve as a meaningful vehicle in the decision-making process.

I look forward to meeting with you on August 12.

With best wishes, I am

Sincerely yours,

DR. SHELDON E. SOCOL,
Vice-President
Business Affairs

SES:es

EMPLOYER'S EXHIBIT No. 79

[SEAL]

YESHIVA UNIVERSITY

500 West 185th Street • New York, N.Y. 10033 • 568-8400

Vice President
for Business Affairs

August 15, 1973

Dear Colleague:

The preparation for the University budget for 1973-74 has been unrer way for many months. This preparation has included broad base participation by all segments of the University Community. The University Budget Committee, under the Chairmanship of Dean Jacob Rabinowitz, has met and consulted with virtually every Dean and Director, and has met upon request with representative faculty and student groups. These discussions were in addition to the interaction which took place within most schools in regard to their own budgets and to the discussions which took place at the Executive, Undergraduate and Graduate Councils. No doubt these discussions will continue as the budget for 1973-74 is finalized and as the preparation for the 1974-75 budget begins.

A great deal of work required in the development of the 1973-74 budget has, therefore, been completed. We must, at this time, however, complete the final phase of budget development. I am, therefore, asking you to complete the enclosed budget request forms and to return them to this office within ten days. The budget request forms were designed to gather relevant data on a consistent basis to allow for proper evaluation and comparison with your budget from prior periods and with the budgets of other schools and departments of the University.

All budget requests will be evaluated and incorporated into an overall University budget for the 1973-74 fiscal

year. They will then be submitted to the President for approval with the recommendations of the University Budget Committee. Your budget requests should reflect, where applicable, the discussions with the University Budget Committee and should be consistent with the guidelines outlined below. These guidelines incorporate the recommendation of the Executive Council and summarize relevant existing University policies. It will not at all be helpful to have budget requests submitted when it is known in advance that they are beyond institutional funding capabilities or are in conflict with University policies.

1. The University freeze on the hiring of new non-academic personnel will remain in effect during 1973-74. This freeze includes the hiring of replacement personnel as well as personnel for proposed new positions. A freeze on overtime also remains in effect. In extenuating circumstances, requests for a variance to these policies can be submitted to this office.

2. Budgets for 1973-74 cannot exceed the approved or actual 1972-73 expenditure level, whichever was less. This, of course, means that all inflationary costs and salary adjustments must be absorbed within existing funding levels.

3. Salary increases must be absorbed within the existing funding levels. In this regard, you should take note of my recent memorandum in regard to the implementation of salary revisions for Union and Union-related non-academic personnel. I should also like to point out, as outlined in that memorandum, that the salary increase of January 1, 1973 and January 1, 1974 must be anticipated, within each budget, so that funds will be available if and when approval from the appropriate federal agency is received for the implementation of these salary increases.

Salary revisions for other members of the staff are under review, evaluation and discussion. In all instances, however, decisions in regard to salary revisions will be subject to the following factors:

a. The Economic Stabilization Act and related Federal regulations of such agencies as the Cost of Living Council.

b. The total University Budget for 1973-74.

c. The 1973-74 Budget for each School or Department.

Every effort is being made to resolve this matter as rapidly as possible. Decisions cannot be made, however, until these factors have been clarified and finanlized.

4. Without specific approval, salary charges for personnel in a School or Department cannot be transferred from sponsored Research or Grant Funds to University Funds.

5. To the degree that a School or Department can generate additional unrestricted income such as tuition, such funds, in part, may be used to justify an increase in the funding level over and above that of 1972-73. A part of such additional income must, however, be used to reduce the existing operating deficit. The exact amount involved will be determined in discussions with the University Budget Committee and subject to the approval of the President. In a similar manner, where a decrease in income for a School or Department appears likely, a corresponding decrease in the funding level must be reflected in the budget request.

6. Every Dean and Director was charged by the President two years ago with the responsibility of reducing the direct 1970-71 operating deficit during 1971-72 by a minimum of 50%. This objective was continued during 1972-73. Our efforts during 1973-74 must be directed to further reducing the operating deficit level. On step in the Budget finalization process for 1973-74 will be an evaluation of the progress that has been made by each School and Department in fulfilling, as of this date, the Presidential charge outlined above.

It is apparent that to be meaningful and helpful, budget preparation must be an ongoing activity and must be completed well in advance of the beginning of the fiscal year. Early in the Fall, therefore, we will begin

preparation for the budget for 1974-75 so that we may be in a position by the Spring of 1974 to complete our budgets for 1974-75.

We may all take pride and satisfaction in the fact that during the last three years a great deal of effort and self-sacrifice has resulted in a significant decrease in the annual operating deficit from 4.7 million to 1.3 million. There is no doubt, however, that we still face extremely serious financial problems and that a number of painful decisions have yet to be made. The recent sharp increase in interest rates, coupled with general economic conditions, has agravated our fiscal position beyond our original expectations. These factors, aggravated by the constantly increasing cost for labor, materials, and supplies, threatens to reverse the success we have had to date in reducing our deficit. This we cannot and shall not permit to happen. It is against this sombre background that the budget for 1973-74 must be determined.

We must, in the future, make greater use of programmatic evaluations as an integral part of budget development. Academic programs should be evaluated by the Dean and members of the faculty to determine their level of academic achievement and their cost effectiveness within clearly defined priority objectives for each school and for the entire University. Non-academic and service departments must also be evaluated on the basis of similar criteria. Institutional resources should be allocated only on the basis of these priorities.

During 1973-74 we must be able to further reduce our annual operating deficit. This goal can be achieved only by restricting our expenditures and generating additional income. We must commit ourselves toward these objectives, perhaps as never before, so that we can be successful in both endeavors.

Achieving the necessary fiscal stability was not and will not be an easy task and your active cooperation will be most essential. Only through the best efforts of everyone involved will it be possible to find sensible and realistic ways of responding to the financial problems which confront us.

Sincerely yours,

/s/ Sheldon E. Socol
SHELDON E. SOCOL
Vice President,
Business Affairs

SES/hrb
Enclosures

EMPLOYER'S EXHIBIT No. 100

STERN COLLEGE FOR WOMEN
FACULTY Fall 1974-75

DEPARTMENT	FULL TIME	PART TIME	UNIVERSITY
Art		Mr. R. Cantor Mr. A. Elvaiah	
Biology	Dr. B. Friedland (Chairman)* Dr. F. Goodman Dr. B. Rosoff Dr. J. Grant Mr. M. Altman		
Chemistry	Dr. N. Remes (Chairman) Dr. S. Krumbein	Mrs. C. Dobin Mrs. E. Orlian	
Education	Dr. S. Koenigsberg (Chairman)	Dr. C. Skor Dr. P. Kahn	Dr. S. Sardy (FGS) Dr. A. Jablonsky (FGS)
English	Dr. F. Plotkin (Chairman)** Mrs. L. Hatvary Dr. D. Shores Dr. C. Silver Dr. N. Vogel	Dr. J. Ross	
French	Dr. A. Krakowski	Dr. M. Sorkin	
rman		Mrs. S. Laufer	
Health Education		Dr. E. Sar Mrs. S. Schmidek Prof. A. Tauber Mrs. B. Wartel	
Hebrew Studies	Dr. S. Eidelberg (Chairman) Dr. A. Bittmann Mr. H. Dubitsky Dr. J. Feinstein Dr. M. Havazelet Mr. H. Kamri Miss H. Kosak Dr. N. Rosenbloom	Dr. E. Kedar Mr. S. Klein Dr. E. Neiss	

* Acts as Chairman of the Mathematics and Physics Departments
* Also Chairman of Art, Music and [illegible] Departments

STERN COLLEGE FOR WOMEN FACULTY Fall 1974-75 (Continued)

DEPARTMENT	FULL TIME	PART TIME	UNIVERSITY
History	Dr. D. Goldstein (Chairman) Dr. L. Grossman Prof. L. Dawidowicz	Dr. W. Korey Mr. M. Mashberg	
Judaic Studies	Rabbi S. Berman (Chairman) Dr. M. Gordon Rabbi A. Metzger Rabbi A. Weiss	Mr. H. Billet Rabbi Y. Blau Dr. Y. Felman Rabbi F. Schonfeld Miss S. Schwartz Rabbi A. Shurin	Rabbi M. Besdin (JSS) Rabbi D. Bleich (YP) Rabbi M. Schacter (YP)
Mathematics	Mr. D. Victor		Dr. N. Rosenfeld (B) Dr. R. Putz (B)
Music			Dr. E. Levy (YC)
Philosophy	✓ Dr. G. Appel (Chairman)	Mr. S. Carmy Mr. E. Bick	
Physics		Mr. R. Pena	
Political Science		Dr. S. Bernstein ✗ Dr. M. Hecht	
Psychology	Dr. I. Belmont (Chairman)* Dr. M. Perlman Dr. E. Robinson		Dr. A. Givner (FGS) Mr. S. Donshik (WSSW)
Sociology	Miss I. Bick	Dr. C. Waxman Dr. L. Lister	
Spanish	✓ Mrs. N. Knopka		
Speech	Mrs. J. Golden Mrs. P. Schram	Miss E. Brandstein	

* Also Chairman of the Sociology Department

EMPLOYER'S EXHIBIT No. 101

Stern College - Part-Time Faculty

Fall 1974

Name	Rank	No. of contact hrs. in current semester	Semesters worked within last 3 yrs. & no. of contact hrs. for each semester	List P.T. affiliations at other schools of Y.U.	List any outside institution with which individual is know to be affiliated
			F/S		
Dr. Samuel Bernstein	Vis Assoc. Prof.	9	1973-74 9, 9 1972-73 9, 9 1971-72 9, 9		Baruch College
Ezra Bick	Lecturer	3	. . . .		
[illegible] Billet	Lecturer	6	. . . .	J.S.S.	
Yosef Blau	Lecturer	3	1973-74 3, 3		
Bleich, David	Vis Assistant Professor	6	1973-74 6, 6 1972-73 6, 6 1971-72 6, 6		
Brar[illegible]tein Eve	Lecturer	7	. . . .	Y.C.	
Cantor, Richard	Lecturer	4	. . . .		Fairleigh-Dickinson University
Carmy, Shalom	Lecturer	6		Y.C. & EMC	
Dobin, Cecily	Lecturer	6	1973-74 6, 6 1972-73 6, 6 1971-72 6, 6		
Elvaiah, Ahron	Lecturer	2			
[illegible]elman, Yehudi	Vis Assistant Professor	2		EMC	

Name	Rank	No. of contact hrs. in current semester	Semesters worked within last 3 yrs. & no. of contact hrs. for each semester	List P.T. affiliations at other schools of Y.U.	List any outside institution with which individual is known to be affiliated
Hecht, Michael	Vis Assistant Professor	6	1973-74 6,3 1972-73 6, 6 1971-72 6, 6	YC	Y.H.S.
Kahn, Paul	Vis Professor	3			Adjunct Professor-Pace University New School for Soc. Research
Kedar, Ervin	Vis Professor	2	1973-74 2, 2	EMC	
Klein, Stanley	Lecturer	6	1973-74 6, 6		
Korey, William	Vis Associate Professor	3	1971-72 S:3 1972-73 3, 3		
Lau r, Sophie	Lecturer	9	1971-72 9, 9 1972-73 9, 9 1973-74 9, 9		
Lister, Louis	Vis Professor	6	1973-74 2, 2 1972-73 3, 3		Hunter College
Mashberg, Michael	Lecturer	3			
Neiss, Edmund	Lecturer	2			Y.H.S.
Orlian, Ethel	Lecturer	6	1972-73 6, 6 1971-72 6, 6		
Pena, Raphael	Lecturer	10		G.A. Belfer	

Name	Rank	No. of contact hrs. in current semester	Semesters worked within last 3 yrs. & no. of contact hrs. for each semester	List P.T. affiliations at other schools of Y.U.	List any outside institution with which individual is known to be affiliated
Ross, Judy	Lecturer	4			
Schachter, Melech	Vis. Assoc. Prof.	6	1973-74 6, 6 1972-73 6, 6 1971-72 6, 6		
Schwartz, Susan	Lecturer	3			
Schmidek, Shulamith	Lecturer	6	1973-74 6, 6 1972-73 9, 9		
Schonfeld, Fabian	Lecturer	3	1973-74 3, 3 1972-73 3, 3 1971-72 3, 3		
Shurin, Aaron	Lecturer	9	1973-74 9, 9 1972-73 9, 9 1971-72 9, 9		
Skor, Constance	Clinical Assistant Professor		1973-74 12, 12 1972-73 12, 12 1971-72 12, 12		
Sor[illegible]. Max	Vis Professor	9	1973-74 9, 9		N.Y.U. (Ret.)
Tauber, Arthur	Vis Assistant Professor	2	1973-74 2, 2 1972-73 2, 2 1971-72 2, 2	YC	
Wartel, Beatrice	Lecturer	6	1973-74 5, 5 1972-73 5, 5		
Waxman, Chaim	Vis Assistant Professor	6			Brooklyn College

EMPLOYER'S EXHIBIT No. 102

STERN COLLEGE FOR WOMEN
YESHIVA UNIVERSITY

Faculty Organization
Interim Document 1

Interim Document I constitutes those portions of the Report of the Faculty Organization Committee, presented to the Faculty in Spring of 1967, that have been discussed and voted.

Attached are those portions not yet discussed and acted upon.

I. Faculty Meetings

[Revised and approved by the Facuty, May 10, 1967]

1. A. The faculty shall meet no less than twice each semester, in October, December, March and May or June.

   B. The Dean may at his discretion call additional regular meetings.

   C. Due notice of all meetings shall be sent out by the secretary at least ten days prior to the meetings, and the notice shall include the agenda and the minutes of the previous meeting.

2. A. Special meetings shall be called by the Dean upon written request of one-fourth of the full-time members of the Faculty, or upon the request of a duly constituted committee of the Faculty.

   B. Such requests shall include the object of the meeting.

3. A. Debates and discussions are to remain confidential.

   B. Official announcements of actions taken by the Faculty may be made only by the Office of the

Dean or such other office or person as may be authorized by the Faculty.

4. A. All full-time members of the Faculty and Professors Emeriti are entitled to vote at Faculty meetings.

   B. All members of the Faculty will be invited to Faculty meetings and may participate freely in deliberations.

   C. Part-time Faculty members who have been at the College three or more consecutive years and who teach three or more hours shall be entitled to vote.

5. A. The presiding officer at meetings of the Faculty shall be the Dean or such person as he may designate.

   B. The Dean shall provide a secretary to serve as recorder at Faculty meetings.

6. A quorum shall consist of a majority of full-time Faculty members in residence.

7. All meetings of the Faculty shall be conducted in accordance with the latest edition of Robert's Rules of Order.

II. Departments

The question of departments was different from that of faculty meetings or committees in that it involved matters of promotion and budgetary concerns and, therefore, that particular area could be formulated as a recommendation to the administration.

1. Academic areas at Stern College shall be organized as Departments as defined below (Approved June 8, 1967)

2. Any subject area which offers a major must be organized as a department and said department must have 2 or more instructors one of whom is full-time. The motion was passed 9 to 6 as thus amended.

Portions of the Report of Faculty Organization Committee Yet to be Acted Upon.

2. Any subject area which offers a major or which offers one or more required courses must be organized as a department, e.g., Philosophy, Sociology, Mathematics, etc.

3. In order that every discipline be organized administratively, those areas which do not meet the above description, shall be allied with their most closely related discipline, and preferably with one that also does not offer a major, e.g., Political Science and Economics, etc.

4. A developing academic discipline will be considered ready to offer a major when for three consecutive years it has supported at least one full-time and one part-time instructor and when its curriculum offers the student a minimum of 24 credits countable towards a major.

COMMITTEES

2. *Committee on Curriculum*

   The Committee on Curriculum shall consist of the Departmental Chairman and the Academic Dean. The Committee shall vote its own Chairman. This Committee shall provide for a bi-annual meeting with officials of the Student Council.

   Committee on Faculty Welfare

3. The Committee on Faculty Welfare shall consist solely of seven full-time members of the Faculty and one part-time member, elected annually by the Faculty.

4. *Committee on Academic Standing*

   The Committee on Academic Standing shall consist of the Academic Dean, who shall serve as its Chairman, and six Faculty members from the rank

of Associate and Full Professor, to be chosen by the Academic Dean.

5. *Committee on Student Life*

The Committee on Student Life shall consist of the Dean of Students, the President of the Student Council, three Faculty members chosen by the Dean of Students, and three Faculty members chosen by the Student Body.

6. *Committee on the Library*

The Committee on the Library shall consist of the Academic Dean, the Stern College Librarian, and one Faculty member each from the Humanities, Sciences, Social Sciences and Jewish Studies, to be chosen jointly by the Academic Dean and the Stern College Librarian.

7. *Committee on Admissions*

The Committee on Admissions shall consist of the Academic Dean and four members of the Faculty chosen by the Academic Dean.

Every full-time Faculty member shall serve on one committee and no person shall serve on more than three.

III. Committees

1. Committee on Promotions

A. The Committee on Promotions shall consist of six Faculty members elected annually by the Faculty from the rank of full Professor with due attention that there be at least one member from the Humanities, the Sciences, the Social and Behavioral Sciences and Jewish Studies.

B. The Academic Dean shall serve as its Chairman.

C. Where departments are established, the Departmental Chairman shall propose candidates for promotion.

D. The Academic Dean shall review annually the record of each Faculty member and present for automatic consideration by the Committee all eligible candidates.

[Revised and approved May 10, 1967]

EMPLOYER'S EXHIBIT NO. 103

STERN COLLEGE FOR WOMEN/
YESHIVA UNIVERSITY

Further Faculty Action on:

Faculty Organization Interim Document I

2. *Committee on Faculty Welfare*

The Committee on Faculty Welfare shall consist solely of seven full-time members of the Faculty and one part-time member, elected annually by the Faculty.

[Approved Sept. 26, 1967]

3. *Faculty Student Committee on Student Life*

A. The Committee on Student-Life shall consist of the Director of Student Services, the student representatives, and three Faculty members appointed by the Dean.

B. The Committee shall be constituted as the Faculty-Student Committee on Student Life.

C. The wording "Dean of Students" shall be changed to "Director of Student Life".

[Approved Sept. 26, 1967]

4. *Committee on Academic Standards*

The Committee on Academic Standards shall consist of the Academic Dean and six full time members appointed by the Academic Dean. The Committee shall select its own Chairman.

[Approved Jan. 4, 1968. Revised March 25, 1969]

5. *Committee on Curriculum*

The Committee on Curriculum shall consist of the Departmental chairmen and the Academic Dean. The Committee shall vote on its own chairman. The Committee shall provide for a bi-annual meeting with officers of the Student Council.

6. *Committee on the Library*

The Committee on Library shall consist of the Academic Dean, the Stern College Librarian and one faculty member each from the Humanities, Sciences, Social Sciences and Jewish Studies, to be chosen jointly by the Dean and Stern College Librarian. The Committee will vote on its own Chairman.

[Approved Feb. 19, 1968]

7. *Committee on Admissions*

The Committee on Admissions shall consist of the Academic Dean, Director of Student Services and at least four members of the faculty chosen by the Academic Dean. The Committee will vote on its own chairman.

[Approved Feb. 19, 1968]

8. *Committee on Statistics*

A motion was made and seconded that the Committee on Statistics be made a Standing Committee of the Faculty, and the motion was made and carried.

Every full-time faculty member shall serve on at least one committee but no person shall serve on more than three.

[Approved April 2, 1968]

IV. Stern College Senate

[Voted & approved Dec. 17, 1970]

It was moved and voted, by secret ballot, that: The Faculty establish a joint Faculty-Student Committee com-

posed on faculty and students to legislate academic and curricular affairs. The machinery is to be created by the faculty.

It was also moved and voted, by secret ballot, that a *special* committee be established to draw up a draft constitution; for the above committee to consist of three faculty members elected by the faculty, three students elected by the students, one member of the administration to be appointed by Office of the Dean, and one non-voting representative of the Stern College Alumnae Association. The first meeting of the special Committee is to be called by the Office of the Dean.

1. Copies of the Committee's recommendations were distributed and read. A copy of the original draft is on file with the Office of the Dean.
2. It was agreed to discuss and vote on the draft, article by article and that Article I be voted on last.
3. The document was amended and then accepted by the faculty. Professor Silverman agreed to correct it grammatically for the Committee. A corrected copy will be distributed.

EMPLOYER'S EXHIBIT NO. 104

STERN COLLEGE FOR WOMEN
YESHIVA UNIVERSITY

CONSTITUTION OF THE
STERN COLLEGE SENATE

ARTICLE I—COMPETENCE

The area of competence of the Senate will encompass all matter affecting the Stern College Community, excluding matters relating to specific individuals.

ARTICLE II—MEMBERSHIP

A. The Stern College Senate shall be composed of fifteen voting members chosen as follows:
   1. One representative of the Office of the Dean.
   2. Six faculty representatives, at least one of whom shall be a member of the Jewish Studies faculty.
   3. One alumnae representative.
   4. Six student representatives: 2 seniors, 2 juniors, 1 sophomore, 1 freshman.
   5. One representative of the Office of Student Services.

B. Faculty, alumnae, and student members will be elected for one or two year terms, as their constituencies may decide, by their respective bodies at a date they find suitable, but no later than 10 school days after the inception of the academic year.

C. No elected representative may serve more than two consecutive years.

D. Each member of the Senate shall have one vote.

E. If a vacancy shall occur, the person or body which originally selected the member shall choose a replace-

ment to serve the remainder of the unexpired term of office.

ARTICLE III—OFFICERS

A. The officers shall be a chairman and a secretary.

B. These officers shall be elected at the first Senate meeting of the academic year.

C. These officers shall be elected by a simple majority of a quorum of the Senate as provided in Article IV, paragraph H.

D. 1. The Chairman of the Senate shall convene and preside at all regular and special meetings of the Senate.

2. In the Chairman's absence, the secretary shall preside and select a member present to act as secretary protem.

3. The Chairman shall communicate at appropriate times with the President of the University, the Dean of the College as Chairman of the Faculty Assembly (the faculty meeting as a corporate body) and all other groups and individuals as directed by this constitution or by the Senate.

E. 1. The Secretary of the Senate shall keep a record of all deliberations and of all reports and communications received and made by the Senate.

2. The minutes shall be made public after being approved.

ARTICLE IV—MEETINGS

A. By a ⅔ vote of its members the Senate may adopt and amend by-laws for the conduct of its operations, not inconsistent with this Constitution.

B. Unless otherwise provided in the by-laws, meetings shall be governed by the latest edition of Robert's Rules of Order Revised.

C. Senate meetings shall be open to all members of the constituencies listed in Article II, section A, except as provided below.

D. The Senate reserves the right to meet in closed sessions, limited to members and invited participants.

E. 1. The Senate shall meet no fewer than four times each semester.

2. Special meetings can be called by the Chairman on his own initiative or upon request of a quorum of the Senate.

3. The announcement of all meetings shall be made by mail to the Dean, to the President of Student Council and all elected representatives.

F. A closed session may be convened by the chairman on his own initiative or by a quorum and shall be so announced at least two days prior to that meeting.

G. Announcement of a meeting of the Senate shall be made not less than ten days prior to that meeting.

H. A quorum shall consist of nine members being present, including three student representatives and three faculty representatives.

ARTICLE V—PROCEDURE

A. Measures for discussion by the Senate shall be moved by

1. members of the Senate in accordance with procedures of an agenda committee provided for in the by-laws of this Constitution, Article 3, or

2. by automatic inclusion on its agenda of matters sent to it by the Faculty Assembly, faculty committees, and Student Council.

B. Passage of Senate motions shall be by majority vote of Senators sitting.

C. 1. Motions passed by the Senate will be sent to the Faculty Assembly and will thereupon automati-

cally be placed on the agenda of the Faculty Assembly.

2. Failure of the Assembly to consider a Senate proposal within 20 school days of passage, or failure to reject it within 30 school days, shall be considered adoption, and the Chairman of the Senate will so communicate to the President of the University.

D. Adoption by the Faculty Assembly will be forwarded to the President of the University by the Chairman of the Senate. It should be considered in effect unless and until he disapproves.

E. If the Faculty Assembly rejects a recommendation it automatically returns to the Senate, which may revise and resubmit it at a later meeting of the Assembly, or may vote to forward the original proposal to the President, with a notation of Faculty rejection. It shall go into effect upon his approval.

ARTICLE VI—AMENDMENTS

A. Amendments of the present Constitution may be proposed only by a member of the Senate.

B. Amendments shall require a ⅔ majority of the voting membership of the Senate and shall not take effect until ratified by ⅔ of those present and voting at a Faculty Assembly, and ⅔ of those present and voting at a meeting of the Student Council.

C. The effective date of an amendment shall in no case come earlier than the inception of the academic year following its ratification.

ARTICLE VII—INTERIM

A. This Constitution shall go into effect upon approval of the President of the University upon recommendation of the Faculty Assembly and Student Council.

B. The Dean of Stern College for Women shall convene the first meeting of the Senate.

C. The Dean shall call such a meeting within 20 school days after the President's approval.

BYLAWS

ARTICLE 1. Written notice of a proposed amendment to the Bylaws shall be given with the announcement of the meeting at which it is to be acted on.

ARTICLE 2. The representative of the Office of the Dean shall call the first meeting of the Senate in each academic year.

ARTICLE 3. Agenda Procedure

a. There shall be an Agenda Committee consisting of the Chairman of the Senate, the Secretary, and two other Senators, to be elected at the first meeting of the Senate for that academic year.

b. All items for consideration shall be submitted to the Agenda Committee:

1. In accordance with procedure set forth in Article V A-2.

2. For determination which shall be placed directly on the Senate agenda.

3. For determination which shall be referred to Senate Committees and other bodies.

ARTICLE 4. Voting Procedure

a. Voting shall be by voice, vote or show of hand.

b. Any two members may ask for a roll call vote.

EMPLOYER'S EXHIBIT No. 105

"SENATE UNOFFICIAL LIST"

STANDING COMMITTEES OF THE FACULTY
1974-75

Committee of Academic Statistics

Mr. Morris Altman
Dr. Samuel Bernstein
Mr. Henry Kamri
*Dr. Ellen Robinson

Committee on Academic Standards

Dr. Anna Krakowski
Dr. Alter Metzger
Dean David Mirsky
*Dr. Betty Rosoff
Mrs. Peninnah Schram
Dr. Carol Silver
Mr. David Victor
Office of the Registrar
Office of Student Services

Committee of Admissions

Prof. G. Appel
Rabbi S. Berman
Rabbi Martin Gordon
Dr. Jessica Grant
Dr. Lawrence Grossman
*Dr. Simoon Krumbein
Office of Student Services

Committee on Awards

Mrs. June Golden
*Mrs. Laurel Harbary
Dr. L. Grossman
Dr. M. Havazelet
Rabbi Abraham Weiss

Committee on Curriculum

Dr. Gersion Appel
Rabbi Saul Berman
Dr. S. Eidelberg
Dr. Beatrice Friedland
Dr. Shelly Koenigsberg
*Dean David Mirsky
Dr. Nathaniel Remes
Dr. Belmont
Dr. Plotkin
Office of Registrar
Dr. D. Goldstein

Undergraduate Council

Dr. S. Eidelberg
Dr. C. Silver

University Library

Dr. Frederick Plotkin

Library Committee

Dr. Gersion Appel
Mr. Hanoch Dubitsky
Mrs. Nancy Kuopke
Mrs. Edith Lubetsky
Dr. Doris Shares
Dr. Brad Goodman
Dr. Frederick Plotkin

Senate

Rabbi Alter Metzger
Mr. Morris Altman
Dr. Betty Rosoff
Mrs. Laurel Harbary
Mrs. Peninnah Schram
Dr. Perlman

* Chairman.

Judy Paikin
Debby Herman
*Windy Gans
Jo Anajrastor
Windy Margolis
Helen Stark
Gerry Lasky

Committee on Ceremonial Occasions

Dr. Beatrice Friedland

University Computer

Dr. I. Belimont

University Patent Policy

Dr. S. Krumbein

University Review Committee

Dr. Fred Goodman

University Wide Committee for Bi-Centennial Celebration

Prof. d. Davidowicz

Faculty Welfare Committee

Dr. L. Grossman
Dr. Beatrice Friedland
Prof. M. Perlman
Dr. N. Remes
Prof. Chaim Waxman
Mrs. June Golden
Prof. I. Bick

Shaped Major Committee

Dr. B. Friedland
Dr. A. Metzger
Dr. S. Bernstein

Comm. on Promotions

Dr. G. Appel
Dr. S. Eidelberg
Dr. B. Friedland
Dr. F. Goodman
*Dean D. Mirsky
Dr. N. Rosenbloom

* Chairman.

EMPLOYER'S EXHIBIT NO. 106

STERN COLLEGE FOR WOMEN

[SEAL]

YESHIVA UNIVERSITY

253 Lexington Avenue/New York, N.Y. 10016/
(212) 255-5600

February 23, 1971

Dean David Mirsky
Stern College for Women
Yeshiva University
New York, N. Y. 10016

Dear Dean Mirsky:

As you know, the Emergency Committee on Personnel and Budget has spent a good deal of time meeting with chairmen of departments affected by recent decisions not to renew contracts of certain members of the Faculty; analyzing statistics on course registration, enrolled majors in each department, class sizes, students in advanced courses, the nature of subject matter in each department; discussing the extra-classroom needs of students in each department; meeting with Dean Bacon of Yeshiva College to explore inter-divisional co-ordination.

As a result, the Committee at its meeting of February 15, 1971 decided to make the following recommendation to you:

That two full-time positions be restored and filled for the 1971-2 academic year—one in French and one in History.

We are convinced that these two majors, with the number of students in advanced work and of majors in each department cannot be adequately maintained without at least two full-time members in each. Our further studies and explorations have convinced us that there are other ways of reducing the budget, perhaps lesser evils, so that the cost of these two positions can be met. With your

cooperation, we will shortly make recommendations to that effect.

We hope that you are convinced of the necessity of this recommended action and that you will press this matter at whatever budgetary tribunal in the University that has jurisdiction. We look forward to very early positive action on your part.

The Committee asked me to advise you that this recommendation will be part of the report to the Faculty on February 24.

Thank you for your attention to this matter.

Sincerely,

/s/ Dan Vogel
DAN VOGEL
Chairman
for the Committee

EMPLOYER'S EHXIBIT NO. 107

YESHIVA UNIVERSITY

To: Professor Dan Vogel, Chairman of Emergency Committee on Personnel & Budget — Date: 3/4/71

From: Dean David Mirsky — Subject:

I have received your letter of February 23rd and note, with thanks, the list of the work which the committee has invested in fulfilling its charge.

I also have taken note of the recommendations concerning the continuation of two full time positions, one in French and one in History, for the 1971-72 academic year. I certainly will keep this recommendation in mind when final decisions are made. I do not have to reiterate my own feelings that wherever possible we would like to maintain a full-time faculty. In light of this if I find any way of supporting the Committee's recommendation I will do so. On the other hand, it need not be said that, in the final analysis, the decision on how to meet the needs of the college will have to be made in terms of the overall budgetary point of view, the available personnel, and the general frame of operations which will be set for the College and for the University. In any case, I deeply appreciate the time and effort extended by the Committee. I am sure they have thought carefully about the recommendation and I receive it with the same seriousness with which I am sure it was tendered to me.

Sincerely yours,

EMPLOYER'S EXHIBIT NO. 108

STERN COLLEGE FOR WOMEN
YESHIVA UNIVERSITY

COMMITTEE PERSONAL & BUDGET

Minutes—December 6, 1971

In Attendance: Mssrs. D. Vogel, D. Victor, F. Goodman, N. Remes

The Committee was informed by Dr. D. Vogel that a 30% reduction in the overall budget was requested for the academic year 1971-2. A further cut in the budget is also indicated for the academic year 1972-3.

The Committee adopted the technique of "brainstorming" to survey areas in which economies and budget reductions might be made. According to the rules of this technique, all suggestions and innovations are recorded, essentially as offered, without discussion. These will be screened and evaluated critically in subsequent meetings of the Committee. Ideas are classified into three categories: services, course offerings and scheduling.

Services

(1) restrict faculty use of telephones for personal calls.
(2) reduce and/or consolidate official University mailings to faculty
(3) institute a student fee for reproduction of printed materials for courses
(4) investigate the costs of extra-curricular activities
(5) replace janitorial and maintenance staff in college buildings, dormitories and kitchen by cooperative student services and assistance (as is done at some colleges).
(6) Have students do their own "bussing" in the cafeteria

Scheduling

(1) reinstitute a strict track-system to minimize duplication of courses and/or sections

(2) institute a busing service to take students to other Yeshiva University campuses for advanced courses
(3) reinstitute class level rigidity to reduce course duplication—strict track system
(4) disintegrate schedule to separate Jewish Studies from secular program
(5) all faculty on a five-day week

Courses

(1) feasibility study—compare costs of offering advanced courses in some cases to small number of students as opposed to paying for them at another university
(2) eliminate all advanced courses in non-major fields
(3) integrate T.I. and Stern College
(4) joint coursework with Yeshiva graduate schools in all 100 level courses
(5) limit all introductory courses to one section only
(6) no new majors or courses to be offered during financial crisis
(7) no courses to be offered twice in the academic year
(8) investigate status of advanced courses offerings in Art, Music, and Speech.

EMPLOYER'S EXHIBIT No. 109

YESHIVA UNIVERSITY

FACULTY REVIEW COMMITTEE

In THE MATTER of THE APPEAL

by PROFESSOR DORIS GOLDSTEIN,

CHAIRMAN of THE DEPARTMENT of HISTORY,

STERN COLLEGE, on BEHALF of
DR. CAROL GRUBER

May 1, 1972

Members of the University
Faculty Committee

Morris Epstein (SCW)
Lewis M. Fraad (AECOM)
Irving Linn, chairman (YC)
Nathan Stillman (FGS)
Everett Wilson (WSSW)

May 1, 1972

President Samuel Belkin
Yeshiva University
500 West 185th Street
New York, New York 10033

Dear President Belkin:

As chairman of the University Faculty Review Committee, I am transmitting to you the report of the Committee's deliberations in the petition to it by Professor Doris Goldstein, chairman of the History department of Stern College, on behalf of Dr. Carol Gruber, an untenured member of her department, who received notice of non-reappointment on December 21, 1970.

The chronology and nature of this Committee's deliberations are set forth in its report. Its conclusions fall into two areas:

1. The relation of Dr. Gruber to Yeshiva University.

Since Dr. Gruber was an untenured member of the faculty, the Committee cannot act, on the basis of its statutory charge, in such a way as to bring about her return to her teaching post. (page 3)

2. The authority delegated to departmental heads at Stern College.

Professor Goldstein has argued very cogently the case for the departmental chairman's priority in the matter of separation of a person from the staff. (page 4)

We hope, Mr. President, that you will accept the findings embodied in this report.

Very sincerely yours,

/s/ Irving Linn
Professor of English,
Chairman, the University
Faculty Review Committee

This matter has been directed as an appeal to the University Review Committee by Professor Doris Goldstein, chairman of the Stern College Department of History, on behalf of Dr. Carol Gruber, a member of her department, who received notice of non-reappointment from Dean David Mirsky on December 21, 1970. Dr. Goldstein interposed an objection to the intended action of Dean Mirsky in her capacity as department chairman, lauding Dr. Gruber as professionally competent and asking her retention on the staff. Dr. Goldstein's stand was upheld by two Stern College committees: the P & B Committee and the Welfare Committee, neither of which is a party to this hearing of the University Review Committee.

The basis of this appeal is the letter to this Committee dated May 31, 1971, submitted by Dr. Goldstein. Her letter to this Committee dated April 30, 1971, has appended to it a note from the Stern College Welfare Committee chairman, Professor Marcel Perlman, setting forth the already-stated sentiment of the Welfare Committee. No communication has been received from Dr. Carol Gruber on her own behalf, nor, it may be mentioned, was one necessary under the operating regulations of this committee.

BACKGROUND OF THE CASE:

The University Review Committee was first called upon in a letter by Professor Goldstein to the chairman, dated February 22, 1971, which stated her objection to Dean David Mirsky's notice of non-reappointment to Dr. Gruber dated December 21, 1970, and citing "financial reasons" as the cause. Appended to this letter to the chairman of the University Review Committee was a copy of a letter to Dean Mirsky dated December 21, 1970, in which Professor Goldstein sets forth an alternative solution involving another untenured, and, in her opinion, a more expendable colleague instead. This latter colleague, we are informed in the letter, resigned on December 26. Dean Mirsky refused to alter Dr. Gruber's status, explaining the deepening financial crisis of the

University. Dr. Goldstein then wrote a letter directly to President Belkin, setting forth her position. To this she received no written reply. An oral message conveyed through Dean Mirsky confirmed the administrative decision. Dr. Goldstein then appealed to the University Review Committee, setting forth the facts cited above. She also added her evaluation of Dr. Gruber as an esteened teacher, a praiseworthy scholar and a highly respected colleague and asked for adjudication by the University Review Committee. Dr. Gruber's professional qualifications, admittedly high, are not in dispute.

After consultation with all the members of the Committee, who had received copies of the February 21, 1971, communication, the chairman wrote to Dr. Goldstein on March 15, 1971, requesting her to "exhaust the grievance procedures" available at Stern College, and if she "is not satisfied with the local disposition of Dr. Gruber's case, she may appeal to the University Review Committee." In such a contingency, she is "directed to present the findings of the Stern College Committee to the University Review Committee, which will then sit as an appeals body and *review* the findings of the Stern College committee."

On April 30, 1971, the chairman received a note to which was appended a statement from Professor Marcel I. Perlman, the chairman of the Stern College Welfare Committee:

> Below you will find the sentiments of a memo submitted by the Welfare Committee to Dean Mirsky: . . . that the Dean return two full-time faculty in the French and History departments. We feel that these departments cannot function properly and effectively as one-man departments. We further recommend the re-hiring of Drs. Gruber and Thau in view of their outstanding academic qualifications as most recently confirmed by the scholarly honors and recognition bestowed upon them.

The Stern College representative to the University Review Committee also sent along the following quotation from the April 1 faculty Minutes:

> Dr. Perlman reported on behalf of the Faculty Welfare Committee that at their last meeting, prior to the one held tonight, it was agreed to send a memo to the Dean recommending that, in view of the enrollment in the French and History Departments, that:
>
> a) 2 full-time people were needed in each department, and
> b) in view of the academic calibre of Dr. Gruber and Dr. Thau, the Dean reconsider their re-hiring.
> c) The Dean's reply indicated that he would take these recommendations up with the University.

A new polling of the members of the University Review Committee showed that they felt that still not enough material had been presented to them for a review of this case. The chairman was in touch with Professor Goldstein again, requesting her to submit more of the facts in the case. Dr. Goldstein responded in a letter dated May 31, 1971, containing, among others, the following statements:

> Dean Mirsky had responded to a petition signed by over 300 students urging the re-instatement of Dr. Gruber as a member of the Faculty by stating that "the Administration would review the situation." [page 4]
>
> "Dean Mirsky had called into question the role of any department chairman." [page 4]

By the time this letter of May 31, 1971, was circulated, final examinations and commencement were at hand. The Committee postponed consideration of the case until the next academic year, especially as it was not foreseen that there would be any change of personnel in the Review Committee. Nor was there, except that Dr. Harry Rauch of Belfer is at present on leave.

At its meeting of March 10, 1972, the Committee decided to invite Professor Goldstein and Dean Mirsky to appear before it. Both invitations were accepted. Professor Goldstein again spoke very favorably about the

competence of Dr. Gruber, who through Columbia University is the recipient for the current year of a graduate fellowship and who would be ready to resume her former position at Stern College, were it offered to her. She also spoke about the Dean's disregarding her professional judgment concerning the makeup of the History department and imputed the absence of a stronger faculty stand to a languor in the faculty, born of a feeling of impotence in non-classroom roles. She also stated that since she has been on leave from the University from the beginning of the present academic year, visiting part-time appointees have been covering the classes in the History department.

Dean Mirsky gave the following testimony: That early in the academic year, even before the grave financial crisis of the University became so menacing, it was realized that, owing to a noticeable decrease in registration for the then-current academic year, there would have to be a serious reduction in staff. It was decided that for budgetary reasons the services of six non-tenured positions would have to be eliminated. As it turned out there were two resignations 1) a place in the History department, a resignation already alluded to, and 2) a place in the Jewish Studies department. Neither of these places was filled as a career spot, he added.

Dean Mirsky stated that he had preferred Mr. Allen Pollack over Dr. Gruber because Mr. Pollack would be a more difficult person to replace since his area of interest is Russian-Middle Eastern history. Dean Mirsky said it is not difficult to obtain part-time historians interested in American history, but it is hard to find someone with Mr. Pollack's background who would be willing to come in for a few hours every week. Dean Mirsky denied that he had acted autocratically. He stated that he had consulted with Dr. Goldstein in the matter and that she had counseled him otherwise. He was aware, too, that Dr. Goldstein had gone over his head to the President both because she had told him that she would and because the President had spoken to him about Dr. Goldstein's communication and confirmed the course of action that he was following. He had acted, he stated,

within the framework of the rules of procedure left behind by his predecessor as Dean, Dr. Frimer, and in accordance with the charge given him by the President upon his appointment as Dean. The Committee, after excusing Dean Mirsky with thanks, proceeded to its deliberations.

CONCLUSIONS OF THE UNIVERSITY REVIEW COMMITTEE:

The Committee concludes on the basis of the written materials furnished it by Professor Goldstein and others and on the oral testimony provided by Dean Mirsky and Professor Goldstein:

1. Since Dr. Carol Gruber was an untenured person the Committee cannot act, on the basis of its statutory charge, in such a way as to bring about her return to her teaching post.

It is, to say the least, questionable, the Committee feels, for the Dean of a component school of the University to make a removal merely in consultation with the head of the department. The representatives of the three graduate schools stated that appointments and separations of persons from the faculty of their schools are carried out by the involved department chairmen. The need for such action, especially when dictated by budgetary considerations or enrollment needs, may, of course, be initiated by the Dean in consultation with the department chairman, but it is the department chairman in the three graduate schools who makes the decision as to persons in consultation with the Dean. The University Review Committee believes that this universally accepted academic practice should be made uniform for the entire University.

Since, in the final analysis, it is the President in whom ultimate responsibility rests, he alone makes the crucial decision. Dean Mirsky stated that he had talked to the President about the Carol Gruber case and that the President confirmed the decanal action. Professor Goldstein surely did not strengthen her position by appealing di-

rectly to President Belkin. Some members of the Committee felt that she had prejudiced it by not making a stronger effort within the machinery of Stern College by asking Dean Mirsky to communicate to Dr. Belkin her exception to his decision.

2. This case indicates the wide range of practices which prevail in the appointment and separation procedures operating at present in the several schools of the University. Professor Goldstein has argued very cogently the case for the departmental chairman's priority in the matter of separation of a person from the staff. She sounds a firm note when she says that a professional historian knows best the requirements for a well-formed history department. The broader considerations of market place availability really add little to the efficient functioning of any department.

The members of the University Review Committee would like to see a uniform policy of hiring and separation introduced for all the component schools of the University and the practices set forth clearly. With this in mind it has elected to send copies of this report to the President, his administrative staff, the Deans within the University, all department heads and divisional chairmen, all chairmen of welfare committees, payroll and budget committees, the Faculty Handbook Committee, committees on promotion and separation, and all other chairmen of interested committees.

Respectfully submitted,

The Yeshiva University Faculty
Review Committee

Irving Linn, chairman (YC)
Morris Epstein (SCW)
Lewis M. Fraad (AECOM)
Nathan Stillman (FGS)
Everett Wilson (WSSW)

May 1, 1972

EMPLOYER'S EXHIBIT No. 110

1.

YESHIVA COLLEGE FACULTY

FALL 1974 - 75

A. LANGUAGE, LITERATURE and the FINE ARTS (Dr. David Fleisher, Chairman)

	Full-time	Part-time	University
I.	**Art**		
	Dr. Maurice Chernowitz, Prof.		
II.	**English**		
	Dr. David Fleisher, Prof.,Senior Prof. Dr. Paul Connolly, Asst. Prof. Dr. Joan Haahr, Asst. Prof. Dr. Seymour Lainoff, Prof. Dr. Irving Linn, Prof. Mr. Leo Taubes, Instructor Dr. Manfred Weidhorn, Prof.	Mr. Louis Finkelman, Vis. Lecturer Mr. Isaac Mozeson, Vis. Lecturer Mrs. Judith Watts, Vis. Lecturer	
III.	**Classics**		
	Dr. Louis Feldman, Prof.,Senior Prof.		
IV.	**French**		
	Dr. Pauline Kra, Assoc. Prof.,Senior Prof.	Dr. Viviane Ryan, Vis. Asst. Prof. Mr. Sheldon Schwartz, Vis. Lecturer	
V.	**German**		
	Mr. Thomas Knudsen, Instructor		
VI.	**Music**		
	Dr. Edward Levy, Asst. Prof.		
VII.	**Russian**		
	- - -	Dr. Arash Bormanshinov, Vis. Asst. Prof.	

LANGUAGE, LITERATURE and the FINE ARTS

	Full-time	Part-time	University
VIII.	Spanish		
	- - -	Dr. Antonio Sacoto, Vis. Assoc.Prof. Ms. Joan Warshall, Vis. Lecturer	
IX.	Speech		
	Dr. Abraham Tauber, Prof., Senior Prof. Dr. Anthony Beukas, Asst. Prof. Dr. Laurel Keating, Asst. Prof. Mrs. Shirley Lauro, Instructor	Ms. Eve Brandstein, Vis. Lecturer Mrs. Rebecca Stearns, Vis. Lecturer	

B. NATURAL SCIENCES (Dr. Eli Levine, Chairman)

	Full-time	Part-time	University
I.	**Biology**		
	Dr. Moses D. Tendler, Prof.,Senior Prof.	Ms. Angelo Chen,Lab. Asst.	Mr. Morris Altman,Instructor(S)
	Dr. Maureen Friedman, Asst. Prof.	Dr. Max Hamburg,Vis.Assoc.Prof.	
	Dr. Saul Wischnitzer, Professor	Dr. Barry Kendler,Vis.Lecturer	
II.	**Chemistry**		
	Dr. Eli Levine, Prof.,Senior Prof.	Mr. Philip Gellis, Vis.Lecturer	Dr. Max Lipsicas,Professor(B)
	Dr. Samuel Blackman,Assoc. Prof.	Dr. Marvin Welcher,Vis.Lecturer	Dr. Karl Meyer,Professor(B)
	Mrs. Ida Dobkin, Instructor		
	Dr. Ezra Levy, Assoc. Prof.		
III.	**Information Science**		
	- - -	Dr. Emil Grgin,Vis.Asst.Prof.	Dr. Charles Berger,Professor(B)
			Dr. Graham Frye,Assoc.Prof.(B)
IV.	**Mathematics**		
	Dr. Henry Lisman, Prof.,Senior Prof.		Dr. Melvin Berger,Professor(B)
	Dr. Jonathan Ginsberg, Assoc. Prof.		Dr. Adam Koranyi,Professor(B)
			Dr. Arnold Lebow,Professor(B)
			Dr. Charles Patt,Asst.Prof.(B)
			Dr. Robert Putz,Instructor(B)

NATURAL SCIENCES

Full-time	Part-time	University
VI. Physics		
Mr. Perez Posen, [redacted] Asst.Prof.,Senior Prof. HSST		Dr. Ralph Behrends,Professor(B) Dr. Michael Bell,Asst.Professor(B) Mr. Leonard Brandwein(U) Dr. Fred Cooper,Asst.Professor(B) Dr. David Finkelstein,Professor(B) Dr. Fred Pollak,[redacted] Professor(B) Dr. Paul M.Raccah,Professor(B) Dr. Arthur Woodruff,Assoc.Professor(B)

C. SOCIAL SCIENCES (Dr. Helmut Adler, Chairman)

	Full-time	Part-time	University
I. Economics			
	Dr. Aaron Levine,Asst.Prof.,Senior Prof.	Dr.Philip Ernst,Vis.Asst.Prof.	Mr. Robert Funschelle(U)
II. Education			
	- - -		Dr. Sidney Pleskin,Professor(U)
III. History			
	Dr. Albert Marrin,Assoc.Prof.,Senior Prof. Mr. Robert Goldberg, Instructor	Mr. Steven Bayme,Vis.Lecturer Dr. Ervin Kedar,Vis.Professor Mr. Allen Pollack,Vis.Asst.Prof.	Mr. Zevulun Charlop,Lecturer(U)
IV. Library			
	- - -		Mr. Donald Deitch,Librarian Mrs. Edith Lubetski, Librarian
V. Philosophy			
	- - -	Dr. Sol Roth,Vis.Asst.Prof. Mr. Ira Schnall, Vis.Lecturer Mr. Joshua Shmidman,Vis.Lecturer Dr. Walter Wurzburger,Vis.Assoc. Professor	Dr. Arthur Hyman, Professor, Senior Professor(U) Dr. Aage Peterson,Professor(B)

SOCIAL SCIENCES

Full-time	Part-time	University
VI. Physical Education		
- - -	Mr. Neil Ellman Mr. Jonathan Halpert Mr. Allen Kampf Mr. Lorand Marcell Mr. Alvin Rapp Mr. Matthew Shatzkes Mr. Harvey Sober Mr. Arthur Tauber,Vis.Asst.Prof.	
VII. Political Science		
Dr. Ruth Bevan,Assoc.Prof.,Senior Prof. (on leave of absence) Dr. Gurcharan Singh, Asst. Professor	Mr. Joshua Berkowitz,Vis.Lecturer Mr. Bernard Firestone,Vis.Lecturer Dr. Michael Hecht Dr. Gary Schiff, Vis. Asst. Prof.	
VIII. Psychology		
Dr. Helmut Adler, Prof.,Senior Prof. Dr. Manny Sternlicht, Professor	Dr. Aaron Rabinowitz,Vis.Asst.Prof.	Dr. Carl Auerbach,Asst.Prof.(F) Dr. Allen Goldstein,Assoc.Prof.(F) Dr. Aaron Hershkowitz,Assoc.Prof.(F)
IX. Sociology		
Ms. Susan Maizel, Instructor	Mr. Aron Halberstam,Vis.Lecturer Mr. Jacob Lindenthal,Vis.Assoc.Prof.	

D. JEWISH STUDIES (Dr. Irving Agus, Chairman)

Full-time	Part-time	University
I. Hebrew		
Dr. Asher Siev, Prof., Senior Prof.	Mr. Shalom Carmy (Vis.Lecturer)	Dr. Moshe Carmilly, Professor(E)
	Dr. Michael Katz	Dr. Mayer Herskovics, Professor(E)
		Dr. Elazar Hurvitz, Assoc. Professor(R)
		Dr. Hayim Leaf, Professor (BRGS)
		Dr. Mitchell Orlian, Asst. Professor(E)
		Dr. Philip Paretzky, Instructor(YP)
		Dr. Moshe Sokolow, Asst. Professor(E)
		Mr. Pincus Wollman, Instructor(E)
II. History		
Dr. Irving Agus, Prof., Sernior Prof.		Mr. Louis Bernstein, Instructor(E)
		Dr. Meyer Feldblum, Professor(R)
		Dr. Mayer Herskovics, Professor(E)
		Dr. Moshe Sokolow, Asst. Professor(E)
III. Yiddish		
- - -	Mrs. Gella Fishman (Vis.Lecturer)	

EMPLOYER'S EXHIBIT No. 111

STATISTICAL INFORMATION

Yeshiva College -- Part-Time Faculty
Fall 1974

Name	Rank	No. of contact hrs. in current semester	Semester worked within last 3 yrs & no. Contact Hrs. in each semester	List P.T. affiliations at other schools of Y.U.	List any outside institutions with which individual is known to be affiliated
Bayme, Mr. Stephen	Vis. Lecturer	6	1973F:3;S: 6		
Berkowitz, Mr. Joshua	Vis. Lecturer	3			
Bormanshinov, Dr. Arash	Vis. Asst. Prof.	3	1971F:3;S:3 1972F:3;S:3 1973F:3;S:3		CCNY
Brandstein, Ms. Eve	Vis. Lecturer	6		SCW	
Carmy, Mr. Shalom	Vis. Lecturer	2	1974 S:4	SCW	
Chen, Ms. Angelo		8	1973F:6;S:6		
Ellman, Mr. Neil	Vis.Lecturer	15	1971F:12;S:12 1972F:15;S:15 1973F:15;S:15		
Ernst, Dr. Philip	Vis. Asst. Prof.	9	1973F:9;S:9		
Finkelman, Mr. Louis	Vis. Lecturer	11	1972F:4;S:4 1973F:7;S:7		
Firestone, Mr. Bernard	Vis. Lecturer	3			
Fishman, Mrs, Gella	Vis. Lecturer	6	1973F:3;S:3		
Gellis, Mr. Philip	Vis. Lecturer	4			
Grgin, Dr. Emil	Vis. Asst. Prof.	4			
Halberstam, Mr. Aron	Vis. Lecturer	3	1972F:3;S:3		
Halpert, Mr. Jonathan	Vis. Lecturer				
Hamburgh, Dr. Max	Vis. Assoc. Prof.	4	1971F:2; 1972F:2	AECOM	CCNY

STATISTICAL INFORMATION

Yeshiva College -- Part-Time Faculty
Fall

Name	Rank	No. of contact hrs. in current semester	Semester worked within last 3 yrs & no. Contact hrs. in each semester	List P.T. affiliations at other schools of Y.U.	List any outside institutions with which individual is known to be affiliated
Dr. M. Hecht	Asst. Prof.	3	1971 F:3; S6 1972 F:3; S6 1973 F:3; S6	SCW	YHS

STATISTICAL INFORMATION

Yeshiva College -- Part-Time Faculty
Fall 1974

Name	Rank	No. of contact hrs. in current semester	Semester worked within last 3 yrs & no. contact hrs. in each semester	List P.T. affiliations at other schools of Y.U.	List any outside institutions with which individual is known to be affiliated
Kampf, Mr. Allen	Vis. Lecturer	4	1973F:4;S:4		
Katz, Dr. Michael	Assoc. Professor	6	1971 F:6;S:6		RIETS
Kedar, Dr. Ervin	Vis. Professor	2	1972 F:2;S:2 1973 F:2;S:2	SCW	
Kendler, Dr. Barry	Vis. Lecturer	16			
Lindenthal, Dr. Jacob	Vis.Assoc.Prof.	3	1972F:3; S:3 1973F:3; S:3	BRGS	Rutgers
Marcell, Mr. Lorand	Vis. Lecturer	10	1971F:10;S:10 1972F:10;S:10 1973F:10;S:10		
Mozeson, Mr. Isaac	Vis. Lecturer	9			
Pollack, Mr. Allen	Vis.Asst.Prof.	3	1972F:3;S:3 1973 S:3		
Rabinowitz, Dr. Aaron	Vis.Asst.Prof.	3			
Rapp, Mr. Alvin	Vis. Lecturer	4	1973F:4;S:4		
Roth, Dr. Sol	Vis.Asst.Prof.	6	1971F:6;S:6 1972F:6;S:6 1973F:6;S:6		
Ryan, Dr. Viviane	Vis.Asst.Prof.	9			
Sacoto, Dr. Antonio	Vis.Assoc.Prof.	3			CCNY
Schnall, Mr. Ira	Vis. Lecturer	6	1973F:6;S:3		
Schiff, Dr. Gary	Vis.Asst.Prof.	6	1973:3;S:6		
Schwartz, Mr.Sheldon	Vis. Lecturer	3			

STATISTICAL INFORMATION

Yeshiva College -- Part-Time Faculty
Fall 1974

Name	Rank	No. of contact hrs. in current semester	Semester worked within last 3 yrs & no. contact hrs. in each semester	List P.T. affiliations at other schools of Y.U.	List any outside institutions with which individual is known to be affiliated
Shatzkes, Mr. Matthew	Vis. Lecturer	4	1973:4;S:4		
Shmidman, Mr. Joshua	Vis. Lecturer	2	1971F:2;S:2 1972F:2;S:2 1973F:2;S:2		
Sober, Harvey		8	1971F:7,S:7 1972F:8;S:8 1973F:8;S:8		
Stearns, Mrs. Rebecca	Vis. Lecturer	9			
Tauber, Mr. Arthur	Vis.Asst.Prof.	15	1971F:14;S:14 1972F:14;S:14 1973F:15;S:15	SCW	
Warshall, Ms. Joan	Vis. Lecturer	6			
Watts, Mrs. Judith	Vis. Lecturer	3			
Welcher, Dr. Marvin	Vis. Lecturer	4			
Wurzburger, Dr. Walter	Vis.Assoc.Prof.	5	1971F:5;S:5 1972F:5;S:5 1973F:5;S:5	BRGS	

EMPLOYER'S EXHIBIT NO. 112

Yeshiva University

YESHIVA COLLEGE

Upon recommendation of the Administration, Faculty and Student Body of Yeshiva College, the President approved the establishment of a Senate to govern the affairs of the College as specifically set forth below, and in accordance with the ideals and goals of this institution. Its intent is to share responsibility for the operations and improvement of the College among the groups that constitute the College.

This new development at Yeshiva College is the outcome of cooperation among Administration, Faculty and Students who comprise the College, and will redound, it is hoped, to the best interests of the College and its traditions in its continued growth.

CONSTITUTION OF THE YESHIVA COLLEGE SENATE

(In effect June 1969, with later amendments as indicated, through June 1974)

ARTICLE I. COMPOSITION AND ORGANIZATION

Section 1. The Yeshiva College Senate shall be composed of members of the Administration, the Faculty, the Student Body, and the Alumni as follows:

a) Administration: The Dean of the College, the Vice President for Student Affairs, the Registrar, and the Director of Admissions shall serve *ex officio*, and one other University academic officer designated by the President. (Amended 4/1/71)

b) Faculty: Eight full-time faculty members, with each rank represented, preferably two from each rank, elected by the Faculty Assembly for two-year overlapping terms, four each year. (Amended 5/27/71)

c) Students: Six students (three or four incoming Seniors and the remainder incoming Juniors) selected by the incoming Student Council, in the manner proscribed by the Yeshiva College Student Council Constitution, in accordance with section 2 of this article. (Amended 4/13/72)

d) Alumni: One alumnus appointed by the Yeshiva College Alumni Association. The Alumni Association may designate an alternate who shall serve only in the absence of the regular representative. (Amended 10/10/69, 6/15/70)

Section 2.

a) The sophomores chosen each year shall serve for two years, and the juniors for one year. (Amended 10/19/72)

b) Student candidates for the Senate shall be required to have at least a 3.000 cumulative academic average, and shall be required to maintain this average during their term of office. In all other respects, the election and tenure of the student members shall be governed by the regulations pertaining to other extracurricular activities.

c) All students who meet the above qualifications are eligible to serve on the Senate, with the exception of the President of the Yeshiva College Student Council, and the Editor-in-Chief of the Commentator.

Section 3. If any member resigns, or is found ineligible for office, the body which originally elected him shall elect a replacement to serve the remainder of the unexpired term of office. (Renumbered and rearranged 12/70)

Section 4. The faculty and student members of the Senate shall be selected in the Spring semester of each year, during the month of May, on a date to be determined by the Senate, and shall assume office immediately. The results of the elections shall be publicized to the Yeshiva College community. (Renumbered and transitory provisions omitted 12/70)

Section 5. The first session of the Senate each year shall be called by the Dean in June. Thereafter the elected chairman shall call the Senate into session at his discretion, but not less frequently than once a month during the school year. Meetings must be called when requested by a majority of the members. (Renumbered 12/70)

Section 6. At its first session each year, the Senate shall elect a Chairman and a Secretary. The Chairman shall be a student or faculty member and shall not vote except in the case of a tie. (Amended 5/28/70)

Section 7. The Secretary shall keep a record of all deliberations and of all reports and communications received by the Senate, and shall make the minutes public to the Faculty and to the Student Body.

Section 8. Each member of the Senate shall have one vote. (Amended 10/10/69)

Section 9. All policy decisions of the Senate shall be made by simple majority vote, and in all procedural matters the Senate shall follow Robert's Rules of Order.

Section 10. A quorum shall consist of twelve members, with at least two from each group (except the Alumni) being present. (Amended 6/15/70)

ARTICLE II. SCOPE

Section 1. The Senate shall have jurisdiction over the academic affairs of the college, as specifically set forth below:

a) Academic standards, admissions policy, curriculum and requirements for degree.

b) The establishment of new majors, and new courses. In the above matters, the Senate shall be required to consult with the Department and Division Heads involved before voting on the issue.

c) Determination of policy on: 1) standards of scholastic performance; 2) student attendance; 3) the grading system; 4) academic honors.

d) Discussion and disposition of all matters submitted to it by the Administration, the Faculty, the Student

Council, and the Yeshiva College Alumni Associate (Amended 5/23/74)

Section 2. The Senate shall make policy recommendations to the appropriate bodies on matters affecting faculty welfare, including appointments, promotions, leaves of absences, honors, and remuneration.

Section 3. All measures passed by the Senate shall be submitted to the President and the Faculty Assembly, both of whom shall have the power to veto, the latter by a two-thirds majority vote of its members present. Any measure not vetoed within fifty school days (classes in session) after its communication to the President and Faculty Assembly shall be considered adopted. A recommendation of the Senate may also be approved by affirmative action of the Faculty Assembly within the fifty day limit; such action shall be communicated to the President, and upon his approval the measure shall be effective. (Amended 12/18/69)

Section 4. The Senate shall have no jurisdiction over the administration of Academic regulations and the awarding of academic honors to students, i.e. admission, probation, dismissal, academic honors and prizes.

Section 5. The Senate shall have no jurisdiction over extra-curricular activities or the administration of student discipline.

ARTICLE III. COMMITTEES

Section 1. Two student members shall be appointed for one year by the Student Council to the following committees: Curriculum and Instruction, Welfare, Library, Student Activities Policy, Scholastic Standing, whose present membership, organization and scope are described in the sections of the Yeshiva College Faculty Statute appended hereto. Student members of the Welfare and Scholastic Standing Committees shall participate in all activities of the committees except when they deal with specific individuals and cases.

Section 2. All Committees shall report to the Senate as well as to the Faculty Assembly.

ARTICLE IV. AMENDMENTS

Section 1. Amendments to the present constitution shall require a two-thirds (2/3) majority vote of the voting membership of the Senate. Notice of a proposed amendment must be included with the announcement of the meeting.

APPENDIX

Pertinent sections of the Yeshiva College Faculty Statute, included in accordance with Article II, Section 1:

2. *COMMITTEE ON CURRICULUM AND INSTRUCTION*

a. Functions

1) Carry on continuous review of current course offerings and refer to the appropriate departments suggestions (including those of students) made to improve curricular offerings by adding or deleting courses.

2) Review recommendations of the departments for the addition or deletion of courses. If approved by the committee, such recommendations shall be circulated to the entire faculty. If there is no objection within one month from any department or the Dean, the recommendation shall go into effect. If there is any objection the recommendation shall be discussed jointly by all affected parties, and if there is still no agreement, the recommendation shall be referred to a meeting of all departmental representatives for decision. If disapproved by the committee the recommendations shall be returned to the originating department for reconsideration. In the event of failure of the committee and the department to agree the question shall be referred to the Assembly.

3) Establish broad guide lines for the requirements for majors.

4) Study and recommend to the faculty for its consideration such programs as honors work, colloquim seminars, and advanced placement programs (the administration of these programs to be the task of the Scholastic Standing Committee).

5) Study the impact and effectiveness of national standardized tests in the light of our courses of study.

6) Study and recommend to the faculty for its consideration new developments in audiovisual aids and other media for improving teaching methods and techniques.

7) Study and acquaint the faculty with national symposiums, conferences, and educational programs, and encourage participation in such meetings.

8) Study and recommend general requirements for graduation from the College.

9) Study and acquaint the Faculty with new developments in higher education generally.

3. *LIBRARY COMMITTEE*

a. Functions

1) Act as liaison between faculty and library staff.

2) Study and acquaint the Faculty with the resources and problems of the Pollack Library and those facilities of the Mendel Gottesman Library and other University libraries which have relationship to the curricular offerings of Yeshiva College in terms of the curricular offerings of the College.

3) Make recommendations for the improvement of library conditions in general and for smooth library operation.

b. Membership

1) The Director of Libraries and the Librarians of the Pollack and Gottesman Libraries shall be consultants to the Committee.

4. *SCHOLASTIC STANDING COMMITTEE*

a. Functions

1) Study and recommend to the faculty policies on: (a) scholastic standards and performances; (b) student absences; (c) the grading system; (d) minimal student performance and academic probation and dismissal; (c) disciplinary probation; (f) honors at graduation; (g) Dean's List; (h) student work load; (i) student employment and participation in extracurricular activities.

2) Aid the Office of the Dean in the implementation of these policies.

5. *WELFARE COMMITTEE*

A. Functions

The Welfare Committee shall concern itself with matters affecting the morale and the physical and material welfare of the Faculty. As part of its duties it shall:

1) Seek to ensure maximum benefits for the faculty and call to the attention of the faculty matters which in its judgment call for study and action.

2) Study and recommend procedures to encourage and assist faculty members with (a) research (b) publications (c) participation in learned and professional societies.

3) Hear and seek to resolve grievances of intra-and inter-relations of faculty and administration.

6. *STUDENT ACTIVITIES POLICY COMMITTEE*

a. Functions

1) Consider questions of policy for student activities submitted to it by the Yeshiva College Student Council and advise the Council of the result of its deliber-

ations. Consenting advice by the Committee on a given matter shall exempt those acting in accordance with this advice from the lodging of charges with the Student Activities Judiciary Committee.

b. Membership

1) No member of the Judiciary Committee may serve on this committee.

EMPLOYER'S EXHIBIT NO. 113

Yeshiva University

YESHIVA COLLEGE

Faculty College Committees, 1974-75
as approved by the Faculty Assembly on
September 11, 1974

Committee on Curriculum and Instruction

Dr. Paul Connolly
Dr. Mayer Herskovics
Dr. Henry Lisman
Dr. Edward Levy
Professor Morris Silverman

Students: Harris Goldstein, Martin Yarmush

Library Committee

Mr. Donald Deitch
Mr. Robert Goldberg
Mr. Thomas Knudsen
Mr. Pinchas Wollman

Students: Michael Pariser, David Warburg

Scholastic Standing Committee

Dr. Irving Agus
Dr. Isaac Bacon
Dr. Paul Connolly
Mrs. Ida Dobkin
Rabbi Abner Groff
Dr. Israel Miller
Professor Morris Silverman
Dr. Manny Sternlicht
Mrs. Lauro

Students: Steven Mandelsberg, Rick Shulman

Welfare Committee

Dr. Maurice Chernowitz
Dr. Seymour Lainoff
Dr. Irving Linn
Dr. Asher Siev
Dr. Abraham Tauber
Dr. Manfred Weidhorn

Students: Daniel Blum, Shlomo Charlop

Student Activities Judiciary Committee

Mrs. Shirley Lauro
Dr. Hayim Leaf
Dr. Paul Raccah

Student Activities Policy Committee

Dr. Anthony Beukas
Dr. Moshe Carmilly
Dr. Ezra Levy
Dr. Albert Marrin

Students: Martin Hirsch, Mark Srulowitz

Committee on Committees

Dr. Blackman
Dr. Louis Feldman
Dr. Abraham Tauber
Mr. Leo Taubes

Agenda Committee

Dr. Helmut Adler, Dr. Eli Levine, Miss Susan Maizel

Yeshiva College Representative to the University Faculty Review Committee

Dr. Irving Linn

Representatives to the Academic Council of Undergraduate Schools

Dr. Arthur Hyman
Dr. Moshe Tendler

Students: Paul Lerer, David Teman

Faculty Members of Senate

Mr. Zevulun Charlop
Dr. David Fleisher
Dr. Jonathan Ginsberg
Dr. Joan Haahr
Dr. Michael Hecht
Dr. Laurel Keating
Dr. Aaron Levine
Professor Perez Posen

DEPARTMENTAL ADVISORY COMMITTEES - 1973-74

No. Pages	SUBJECT	TEACHERS	STUDENTS
	CHEMISTRY	Dr. Eli Levine	Irwin Gross
	"	Dr. Ezra Levy	Glenn Hirsch
	"	Dr. Blackman	
	"	Mrs. Dobkin	
	SPEECH	Dr. Keating	Jeffrey Neiman
	"		Norman Gildin
	"		Ira Berkowitz
	"		Leonard Fuld
	"	Dr. Abr. Tauber	Sidney Slivko
	ECONOMICS	* Dr. Phil Ernst	Kenneth Coppell
	"		Leonard Friedman
	BIOLOGY	Dr. M.D. Tendler	Sanford Schoss
	"		Dov Kanner
	POLITICAL SCIENCE	Dr. Dunner	Joseph Blank
	"		Moshael Straus
	"		Moshe Sukenik
	"		Morris Wargon
	"		Isaiah Wexler
	HISTORY	Dr. Marrin	Isaac Saufer
	"	Dr. Goldberg	Zvi Ereyni
	ENGLISH	Dr. Fleisher	Bruce Friedman
	"	Dr. Haahr	Mark Speiser
	CLASSICS	Dr. Feldman	Zvi Ereny
	"		Alan S. Kaufman
	"		Joshua J. Schwartz
	SOCIOLOGY	Ms. Maizel	Philip Skversky
	"	* Dr. Lindenthal	Abr. H. Grunfeld
	PHILOSOPHY	Drs. Roth & Wurzburger	Jeffrey Wandel
	"	Dr. Hyman	Danny Arm
	PHYSICS	Prof. Posen	Harold Weissler
	"	Prof. Landovitz	Zev Hochberg
	MATH	Dr. Lisman	Kenneth Blackstein
	"		Barry Kochanowitz
	PSYCHOLOGY	Dr. H. Adler	Norman Newman
	"	&	Norman Blumenthal
		other faculty members	

EMPLOYER'S EXHIBIT No. 114

EMPLOYER'S EXHIBIT NO. 115

ERNA MICHAEL COLLEGE FACULTY

FALL 1974 - 75

	Full-time	Part-time	University
I Bible	Dr. Mayer Herskovics, Prof., (Sr. Prof.) Dr. Moshe Carmilly, Prof. Dr. Mitchell Orlian, Asst. Prof. Dr. Mosho Sokolow, Asst. Prof.	Dr. Charles Chavel, Visiting Prof. Dr. Yehudi Felman Visiting Asst. Prof. Dr. Abraham Rapaport Visit. Asst. Prof.	Rabbi David Derovan, Instructor (CSD) Rabbi Pesach Oratz, Asst. Prof. (J) Dr. Meir Havazelet, Prof. (S)
II Education	Dr. David Kadosh, Asst. Prof.	Dr. Aaron Rabinowitz, Vis. Asst. Prof.	Rabbi Oratz, Asst. Prof. (J)
III Hebrew	Dr. Hayim Leaf, Prof., (Sr. Prof.) Rabbi Louis Bernstein, Instructor Mr. Yitzchak Sabban, Instructor Mr. Pinchas Wollman, Instructor		
IV History	Dr. Moshe Carmilly, Prof., (Sr. Prof.) Dr. Moshe Sokolow, Asst. Prof. Rabbi Louis Bernstein, Instructor	Rabbi Jay Marcus, Instructor	Dr. Hayyim Cohen, Visiting Prof. (SSI)
V Jurisprudence	Dr. David Kadosh, Asst. Prof. Rabbi Chaim Gulevsky, Instructor Rabbi Israel Wohlgelernter, Asst. Prof.	Dr. Joseph Wanefsky, Vis. Asst. Prof.	Rabbi Mitchell Serels, Instructor (SSI)
VI Philosophy	Dr. David Kadosh, Asst. Prof. Rabbi Israel Wohlgelernter, Asst. Prof.	Dr. Norman Lamm Assoc. Prof.,	

ERNA MICHAEL COLLEGE FACULTY

Fall 1974 - 1975

	Full-time	Part-time	University
VII Sociology		Mr. Zvi Reich, Instructor	Dr. Abraham Stern, Assoc. Prof. (CSD) Mr. Stephen Donshik, Asst. Prof. (W)
VII Talmud	Rabbi Chaim Gulevsky, Instructor Rabbi Aron Kreiser, Instructor Rabbi Joseph Lerner, Instructor Rabbi Israel Wohlgelernter, Asst Prof.	Dr. Aaron Rabinowitz, Vis. Asst. Prof.	

PART-TIME FACULTY

Erna Michael College of Hebraic Studies

Fall 1974

Name	Rank	No. of contact hrs. in current semester	Semester worked within last 3 yrs. & no. Contact Hrs. in each semester	P. T. affiliations at other schools of Y.U.	outside institutions with which individual is known to be affiliated
Chavel, Dr. Charles	Vis. Prof.	----	1971-1974 Spring: 2 hrs.	----	
Felman, Dr. Yehudi	Vis. Asst. Prof.	2	S: 2 F: 2	SCW	Downstate Medical School
Lamm, Dr. Norman	Assoc.Prof.	2	F: 4 S: 4	----	City University
Marcus, Rabbi Jay	Instructor	4	----	Guidance	----
Rabinowitz, Dr. Aaron	Vis. Asst. Prof.	8	----	YC	Bar Ilan University
Rapaport, Dr. Abraham	Vis. Asst. Prof.	2	1973-74 2 each semester	----	----
Reich, Mr. Zvi	Instructor	2	S: 2 F: 2	----	----
Wanefsky, Dr. Joseph	Vis. Asst. Prof.	2	1973-74 2 each semester	----	----

Erna Michael College

Committees

Student Faculty:	Carmilly, Orlian, Sabban
Admissions:	Derovan*, Felman*, Marcus*, A. Rabinowitz*
Academic Standing:	Bernstein, Herskovics, Kadosh, Leaf, Lerner, Oratz, Wohlgelernter
Library:	Gulevsky, Kreiser, Lamm*, Wollman
Delegates to Undergraduate Council:	Havazelet*, Sokolow

* denote part-time in EMC

Examples of Ad-Hoc Committees which existed in previous years:

1) Committee to develop joint program with Wurzweiler
2) Committee to examine attendance and grading policy

EMPLOYER'S EXHIBIT No. 117

EMPLOYER'S EXHIBIT No. 118

JAMES STRIAR SCHOOL FACULTY

FALL 1974 - '75

		Full-time	Part-time	University
I	Bible	Rabbi P. Oratz, Asst. Prof., Chairman Rabbi A. Berman, Instructor Rabbi B. Blech, Instructor Dr. Morris Gorelik, Instructor		Dr. W. Orenstein Instructor (TIW)
II	History		Dr. A. Neuschloss, Instructor	
III	Hebrew		Mr. Samuel Schneider, Instructor Mr. H. Sober, Instructor	Mr. H. Dubitsky, Instructor (SCW) Dr. A. Siev, Instructor (YC)
IV	Judaic Studies	Rabbi S. Siff, Asst. Prof. Rabbi B. Blech, Instructor	Rabbi Ezra Bick, Instructor Mr. H. Billet, Instructor Rabbi P. Reiss, Instructor	Dr. W. Orenstein, Instructor (TIW)
V	Talmudic Literature	Rabbi Maier Fulda, Asst. Prof. Rabbi S. Siff, Asst. Prof. Chairman Rabbi A. Berman, Instructor Rabbi B. Blech, Instructor Dr. Morris Gorelik, Instructor	Rabbi S. Riskin, Vis. Asst. Prof. Mr. H. Billet, Instructor Rabbi P. Reiss, Instructor	

EMPLOYER'S EXHIBIT No. 119

PART-TIME FACULTY

JAMES STRIAR SCHOOL OF GENERAL JEWISH STUDIES

FALL 1974

ne	Rank	No. of contact hrs. in current semester	Semester worked within last 2 yrs. & no. contact hrs. in each semester	P.T. affiliations at other schools of Y.U.	outside institutions with which individual is known to be affiliated
Bick, Rabbi Ezra	Instructor	4	--------	-------	----------
~~Dubitsky, Mr. Henoch~~	~~Instructor~~	~~4~~	~~4 ea. sem.~~	~~SCW~~	~~----------~~
Neuschloss, Dr. Andre	Instructor	4	4 ea. sem.	-------	Touro
Orenstein, Dr.Walter	Instructor	~~8~~	8 ea. sem.	TIW	----------
Reiss, Rabbi Philip	Instructor	10	10 ea. sem.	-------	----------
Riskin, Rabbi Steven	Vis. Asst. Prof.	~~8~~	8 ea. sem.	-------	----------
Schneider, Mr. Samuel	Instructor	6	6 ea. sem.	-------	----------
~~Siev, Dr. Asher~~	~~Instructor~~	~~4~~	~~4 ea. sem.~~	~~Y.C.~~	~~----------~~
Sober, Mr. Harvey	Instructor	10	2 ea. sem.	Y.C.	----------
Billet, Mr. Heshy	Instructor	12	8 to 10 ea. sem.		

EMPLOYER'S EXHIBIT NO. 120

JAMES STRIAR SCHOOL COMMITTEES

Student-Faculty:

Rabbis Fulda, Siff, Blech

Comm. on Promotions:

Rabbis Oratz, Riskin *, Fulda

Ad Hoc:

Evaluation of Hebrew Instruction:
Dr. Siev, Mr. Sober *, Mr. Schneider *

---

* Part-time faculty member.

EMPLOYER'S EXHIBIT NO. 121

Minutes of J.S.S. faculty meeting held on Wed. June 13, 1973 in Furst Hall. Present were: Rabbis Berman, Blech, Fulda, Oratz, Reiss, Riskin, Siff, Dr. Neuschloss, Dr. Orenstein, Dr. Siev, Messrs. Huffman, Schneider, and Sober.

The meeting was opened by Rabbi Besdin at 9:45 A.M. with the comment that he had prepared a long and detailed agenda for this meeting, copies of which were distributed to all present. Rabbi Fulda moved that in view of the length of the agenda we disposed with the minutes of the previous meeting. There was no opposition to the motion.

Following the order of the agenda, Rabbi Besdin introduced the first item: *Instruction in Hebrew language.* He noted that there was a general feeling among the faculty, including the Hebrew instructors, that our Hebrew curriculum has not been sufficiently effective, and that this condition is reflected in the textual weakness of many students. Mr. Huffman stated that we should give more emphasis to the study of basic Hebrew grammar which is essential for textual proficiency. Most students, he said, are bored by grammar and language drill and are constantly asking for conversational Hebrew which they find easier and more interesting. But if we want to give them textual skills we must change the texts from modern Hebrew to solid texts in Biblical grammar and language. Mr. Schneider said, that there should be more consultation between the Hebrew instructors and the other instructors of each class, so that Hebrew instruction may be geared to support the language skills needed for the textual studies in that class. Mr. Sober said that Hebrew grammar can be made more interesting by offering more explanation of the structure of the language, and by using illustrations from Bible and Prayer texts with which students are familiar. We cannot expect adult students to respond to the study of Hebrew grammar unless we teach it with great enthusiasm and use every dramatic effect to impress them with its value. Rabbi Besdin

pointed out that not all instructors have this talent. Dr. Siev expressed the opinion that we must be more insistent upon correct spelling, vocalization, and penmanship and that this can best be done by short homework exercises, required for each class meeting, to be corrected and reviewed in each class session. Rabbi Oratz suggested that in the Freshman Hebrew classes a concentrated effort be made to teach and drill the conjugation of the verb in all tenses, and particularly the [Hebrew letters] and [Hebrew letters] that are so frequently used in the Bible.

There followed a lengthy discussion in which almost all faculty present participated, arriving at a consensus that a committee consisting of all the Hebrew instructors be designated to evaluate the Hebrew curriculum with particular attention to choice of text and teaching methods. Dr. Neuschloss so moved, seconded by Rabbi Oratz. Approved unanimously. Rabbi Besdin requested that the committee meet during this month so that possibly some of its recommendations may be implemented for the Fall semester.

Item II—Reading. Rabbi Besdin brought up the problem that some of our students do not achieve the facility for correct and fluent Hebrew reading and that this impedes all their textual studies. Rabbi Riskin suggested that students be guided and trained in phonetic syllable reading rather than word reading. The trend in most schools today is to return, in great part, to phonetics, instead of word reading. This is all the more necessary for our students since they begin with so little word recognition. Mr. Schneider suggested that more care be given to correct reading in class recitation. Rabbi Besdin suggested that students be urged to shorten their daily prayers to the essentials and read the reduced quantity with greater care and precision.

Item III—Bible. Rabbi Besdin raised the perennial issue of a proper balance between text and commentary. Rabbi Oratz stated that there simply wasn't sufficient time to do even half of Leviticus in the first semester of the Jr. year and that of necessity he must be selective; nor can

Numbers be done in the second semester of the Jr. year, or all of Deuteronomy be learned in Sr. years. The instructor must, therefore, select the sections that are most valuable to students. Dr. Orenstein agreed with Rabbi Oratz and added that if we do not provide commentary and discussions and stick only to text translation, we are bound to lose the interest of our students. The real issue is the balance of the two, and the interest of our students. The real issue is the balance of the two, and this often depends on the nature of the class, its background and interest. Rabbi Blech stated that the commentary be given out of the texts of the basic commentators so that the students improve their textual skill even as they broaden their understanding. Rabbi Besdin remarked that it is necessary that each instructor have a detailed master syllabus and that it be adjusted to the level of each class. Rabbi Besdin also offered to meet with each instructor to discuss and review with him the syllabi of his Bible courses.

Item 4—Talmud. Rabbi Besdin reported that YP faculty decided to learn Tractate [Hebrew letters] for a second year 1973-74. A discussion followed as to advisability for J.S.S., to teach the same [Hebrew letters]. Rabbi Siff said that he finds it beneficial for his class to learn the same [Hebrew letters] as YP. Rabbi Riskin stated that for his students in Soph. A, Tractate [Hebrew letters] was most valuable and Rabbi Blech wished to teach [Hebrew letters]. After a brief discussion it was agreed to allow each instructor to choose the Talmud text and report his choice promptly to Rabbi Besdin so as to include it in the Fall schedule.

Item 5—Approbation of AA degree. Rabbi Besdin presented the list of seniors (prepared by the Registrar's office) who are candidates for the AA degree, and asked whether any faculty member has any objection to any candidate. There was no objection and the entire list thus received the approbation of the faculty.

Item 6—Guidance. Rabbi Besdin reported that the student-faculty committee at its last meeting voted to make a basic change in the guidance procedure of our School.

Up to now, guidance was done during class hours, and students were called out of class for prearranged guidance conferences. The new procedure would limit this practice to the Freshman class and would make guidance for upper classmen voluntary, to be initiated by request of student and arranged for after class hours. Rabbi Besdin aked for opinions of faculty members.

Rabbi Siff stated that the new procedure would weaken the guidance program, since, he felt, that many who need the guidance will not request it, also because convenient after class hours cannot be easily arranged. Dr. Orenstein expressed the opinion that beyond the Freshman year, guidance is of limited value unless it is sought by student, and that taking 2 or 3 students out of one class for a half hour or more, causes a loss for the students and some disruption in the class. Rabbi Besdin stated that he is in agreement with Rabbi Siff in opposition to new procedure, but feels that this is a matter for students and faculty to decide. After considerable further discussion, Rabbi Fulda moved, seconded by Dr. Orenstein, that the above recommendation of the student-faculty committee in regard to guidance procedure be adopted. The motion was carried with Rabbis Siff and Berman voting in the negative.

Item 7—Admission Policy. Rabbi Besdin raised the pressing issue in regard to high school graduates who do not qualify for YP or EMC and want to apply to J.S.S. Rabbi Fulda stated that such students be interviewed very carefully to determine cause for their previous failure and only students of good ability and true dedication to study be accepted. This opinion was supported by all speakers. Rabbi Besdin responded that there is often great pressure on behalf of such students but he will continue to screen them carefully.

Item 8—Good and Welfare. Rabbi Oratz asked about the prospect of salary increases for the coming year. Rabbi Besdin replied that he knows that the college faculty is negotiating for an increment and that if this is granted,

there will, as usual, be some increment for J.S.S. faculty as well.

The meeting was adjourned at 11:50 A.M.

Submitted by

Rabbi Oratz

EMPLOYER'S EXHIBIT NO. 122

YESHIVA UNIVERSITY

JEWISH STUDIES PROGRAM

Minutes of Meeting—

JEWISH STUDIES PROGRAM FACULTY

Jan. 19, 1960

Present: Rabbis Besdin, Rosenfeld, Oratz, Rabinowitz, Siev, Klein, Hartman, and Dr. Neuschloss

Chairman: Rabbi Besdin called the meeting to order at 9:40 A.M. However, because of absence of several members of the faculty, the chairman suggested that we begin by discussing the item on J.S.P. Status.

Remarks: Rabbi Besdin: Officially, we are listed as part of the college. Prof. Silverman recently sent around a memorandum to administration in Yeshiva University inquiring about the status of J.S.P.

Rabbi Besdin feels that ultimately, we should become an independent school. Rabbi Rosenfeld suggested that we begin at once to work for recognition as a separate school.

There are several advantages to being regarded part of the college, such as: salary scale, faculty standing and status, etc. . . .

Rabbi Rosenfeld stressed importance of being independent so that we can determine the pattern of our curriculum and academic standards.

Rabbi Siev pointed out that in the event we become part of the college, we would have to merge with the Jewish Studies Division of the college, which would be to our disadvantage. We may then not be able to set our own standards in an autonomous manner.

Rabbi Klein felt that at the moment our department must have flexibility which it would lose if joined with the college. Is in favor of remaining separate.

General Feeling: The best course may be to allow the matter to slide for the present but ultimately we should become an independent school, and we should begin to plan now to this goal leaving it up to presidents office.

Salaries: Rabbi Besdin: Until now he shied away from this sensitive area. Several members felt that Rabbi Besdin should endeavor to deal with the problem.

Rabbi Rosenfeld: A plan be developed to recognize tenure, increments and skeleton committees etc. . . . He suggested further that present salaries be discussed. Several members revealed their salaries. It was discovered that for four hours, salary varies between $1,000 and $1,200.00.

It was suggested to get salary scales of Yeshiva College, Sterns, etc. . . and information about our scale. A committee is authorized to evaluate the information and bring in a report. The committee appointed: Rabbis Besdin and Siev. Suggested to appoint committees and develop a plan for faculty organization.

DOUBLE PROGRAM PROBLEMS: Serious problem. Rabbi Besdin feels that in our department students carry full double load, because of our insistance on regular attendance, homework, tests, grades and academic standards. Some *good* students consider withdrawing as a result.

Rabbi Rabinowitz: Reduce one course for those who find it difficult and then during June make it up in a concentrated manner.

Rabbi Rosenfeld: It is not essentially a J.S.P. Problem. At present the college is raising its standards and we *must* not lower ours. J.S.P. Justifies its existence only if it achieves its goal in cultivating learned Jewish laymen. J.S.P. Students are mostly not superior students.

The problem then is one of admission. *We ought to raise our standards of admission.*

Rabbi Hartman feels that we cannot exclude average students who desire to study Judaism.

Suggestions:
1. We assume the right to place a student on probation for 1 year
2. We accept students with limited scholastic ability on basis of a five year college program.
3. Limited students be given a reduced program to be made up in a concentrated course in June.
4. We accept weak students even if it means reducing program for them and their college program.
5. Such students should be permitted to take college summer courses to make up what they miss in their reduced program.

Homework and frequency of tests: Students complain of being overburdened with work and tests. The average freshmen at J.S.P. Does his Hebrew work first and then his college work. But they complain they work harder than Yeshiva or T.I. Students.

A lively discussion took place and the following was decided:

1. Tests be scheduled not to conflict with one another.
2. Students should not get more than one test per week.
3. Instructors are asked to notify office of scheduled exams as early as possible.

Suggestion concerning grades: No instructor submit a total final grade of lower than *50%*.

Tests Missed: 1. A student submitting a doctor's note should not be charged for a test missed.

2. With any other valid reason, a fee of $3.00 be charged.

3. When no valid reason is presented, no re-exam be given.

Cheating: Some students confided in Rabbi Besdin that three was some cheating during final exams. In the future, large rooms will be used and an attempt will be made to have more than one proctor in each room.

Next Meeting: Jan. 28th at 9:30 A.M.

Respectively,

Rabbi Siev

EMPLOYER'S EXHIBIT No. 124

PART-TIME FACULTY

Teachers Institute for Women

Fall 1974

Name	Rank	No. of contact hrs. in current semester	Semesters worked within last 3 years and no. of contact hrs. in each semester	Part-time affiliations at other schools of Y.U.	List any outside institution with which individual is known to be affiliated (e.g. Rabbi at Talmud Torah)
Berger, Tamer	Instructor	4 hrs.			
Harris, Hannah	Instructor	8 hrs.	8 hrs. per semester for past 3 years		
Lieberman, Zvulun	Instructor	2 hrs.	2 hrs. per semester for past 3 years		Principal at Hillel
Lookstein, Haskel	Instructor	2 hrs.	2 hrs. per semester for past 3 years		Principal at Ramaz
Suna, Issac	Instructor	8 hrs.	12 hrs. per semester for past 3 years		
Zwick, Jehuda	Instructor	8 hrs.	8 hrs. per semester for past 3 years.		Yeshiva Tifereth Jerusalem

EMPLOYER'S EXHIBIT No. 124

PART-TIME FACULTY

Teachers Institute for Women

Fall 1974

Name	Rank	No. of contact hrs. in current semester	Semesters worked within last 3 years and no. of contact hrs. in each semester	Part-time affiliations at other schools of Y.U.	List any outside institution with which individual is known to be affiliated (e.g. Rabbi at Talmud Torah)
Berger, Tamer	Instructor	4 hrs.			
Harris, Hannah	Instructor	8 hrs.	8 hrs. per semester for past 3 years		
Lieberman, Zvulun	Instructor	2 hrs.	2 hrs. per semester for past 3 years		Principal at Hillel
Lookstein, Haskel	Instructor	2 hrs.	2 hrs. per semester for past 3 years		Principal at Ramaz
Suna, Issac	Instructor	8 hrs.	12 hrs. per semester for past 3 years		
Zwick, Jehuda	Instructor	8 hrs.	8 hrs. per semester for past 3 years.		Yeshiva Tifereth Jerusalem

EMPLOYER'S EXHIBIT No. 125

COMMITTEES OF TEACHERS INSTITUTE FOR WOMEN 1974-75

Admissions: Shkop, Suna *

Academic Standing: Shkop, Orenstein, Isseroff

Curriculum: Lieberman *, Miss Harris *, Shkop

Education: Muschel, Miss Harris *, Isseroff

Student-Faculty: Schneidman *, Shkop

---

* Part-time faculty.

EMPLOYER'S EXHIBIT NO. 126

Emergency meeting—5/24/70 10:A.M.

Present:

Rabbi Faivelson, chairman

1. Dr. Kanevsky
2. Dr. Isserov
3. Dr. Sina
4. Rabbi Schneidman
5. Rabbi Shkop
6. Rabbi Rosenmond
7. Rabbi Rom
8. Mr. Friedland
9. Mrs. Kahoma-Frankel
10. Dr. Moshel
11. Rabbi Fulda
12. Mr. Avineri

Rabbi Faivelson opened the meeting with a review of the recent growth of women's seminaries. He expressed satisfaction with the phenomenon, but nevertheless felt that this has led to a drop in the number of students at our institution.

The registration this semester was 320 as compared to 440 two years ago. (See table below) He also pointed out that other institutions do not require tuition, whereas our tuition will be raised to $30 per credit in the following year.

Rabbi Faivelson has proposed to Dr. Belkin to relocate to Bklyn (to Central) and Dr. Belkin has reacted favorably to this suggestion, as has the principal of Central high school of Bklyn. Rabbi Faivelson is convinced that such a move will draw many more students from Central and other high schools in Bklyn.

	Man	Bx	Q.	Bklyn	All
Sept. 1967	105	33	66	185	389
Sept. 1968	89	25	79	145	338
Sept. 1969	73	26	81	140	320

Rabbi Shkop expressed his negative opinion of such a move, citing the following arguments;

1) the importance of not being connected to the H.S., this is important to the students.

2) the Stern college location offers many advantages, cafeteria, library. . . .

Dr. Suva agreed with Rabbi Shkop.

Rabbi Rosenmond added that Central graduates who attend our institution do not complain as to the distance, whereas, those who did not choose to study at TIW feel that TIW is a copy of Central. A move to central would serve to strengthen this feeling. Rabbi Romm also expressed dissatisfaction with the proposed move and said that we should publicize the institution, he also felt that Manhattan is a safer area than B'klyn, Mr. Friedland commented on the proposed tuition raise, saying that it would not harm the registration; he added that the registration drop is a widespread phenomenon, and that we must learn to live with it. Dr. Isserof's feeling was that we should talk about developing the institution not relocating it, by developing he meant changing the content of courses. He felt that in the event a branch will be opened in B'klyn central, care should be taken to offer courses differing from those taught in Central.

Mr. Avneri pointed out that relocation would not ease the security problem since girls will nevertheless have to travel to school from the different Bklyn neighborhoods. He felt that we must upgrade the standards and demand higher quality work from the students. Dr. Moshel sided with those who felt that relocation is not the solution & that we must upgrade the standards.

Dr. Kanevsky pointed out that our institution is unique in that it has university status. He has already suggested a 4 year program which would enable the students

to earn a B.Ed., 2 years study at our institution & 2 years at another institution. He also felt that not enough is being done to attract girls from high schools other than Central. He also proposed that classes begin at 12:40. Dr. Kanevsky does view the transportation problem as a serious one but nevertheless does not see relocation as a solution.

Rabbi Fulda proposed that we ask Dr. Belkin not to appoint a comm, to study the relocation issue. This proposal was unanimously adopted.

Rabbie Fulda commented that we cannot solve the registration problem, the simple fact being that since the number of his students remained constant, and since on the other hand, other seminaries have opened it is only natural, that a drop should have occurred. Another point was that many students attend without necessarily wishing to earn a degree. Therefore, it is proposed that;

a) to offer courses without credit and with a lower tuition rate,

b) to open new courses in areas in which the students evince an interest

c) to lower the tuition rate.

Rabbi Fulda reiterated that we cannot hope to draw more girls who are seeking a degree, we can only hope to attract non-degree students.

Dr. Kanevsky proposed that we appoint a comm. to meet with representatives of the Univ. to study TIW's problems. Rabbi Shkop proposed that we continue the practice of having a reception for the graduates. Rabbi Fulda proposed that we institute a director's reception to enable students & faculty to meet.

Resolutions;

1) To start a class at 12:40

2) To publicize our course offerings

3) To revamp the courses

4) Dr. Kanevsky also proposed to discontinue the numbering system of courses and to offer them as departmental courses, Bible, history, etc.

A comm. composed of Rabbi Fulda, Rabbi Shkop & Dr. Isserov will meet with Dr. Belkin regarding the above resolutions.

EMPLOYER'S EXHIBIT NO. 127

TEACHERS INSTITUTE FOR WOMEN
YESHIVA UNIVERSITY
253 Lexington Avenue
New York 16, N. Y.

June 29, 1970

The faculty of Teachers Institute for Women, at a specially convened meeting on June 29, 1970 has resolved as follows:

a) It is the principle of all academic institutions that decisions pertaining to institutions are taken in consultation with the faculty of that institution and not on a peremptory basis.

b) The guiding principle of relationships between faculty and administration is such that certain principles always apply with respect to employment. These include: rank, tenure, and a pre-determined scale of salary and annual increments. It is reprehensible that this principle has not been applied to Teachers Institute for Women though this is the procedure with respect to other divisions of Yeshiva University.

c) The proposal conveyed to us by Rabbi Faivelson in the name of a committee of the administration which met with him on Friday, June 26, 1970, institutes changes on a unilateral basis without prior consultation with the faculty, which is both a matter of propriety and precedent in every academic institution.

d) Even were such a decision to be made, which, in effect, would mean the total or partial dismissal of some members of the staff, it is most inappropriate, as well as inequitable, that this be done without adequate advance notice. Clearly this violates every principle of academic institutions, as well as employer-employee relationships, whether on the basis of well-known principles of Judaism, or of generally accepted academic practices.

e) We therefore unreservedly reject this proposal as both legally indefensible and professionally untenable.

This proposal clearly violates accepted academic practices both within and without Yeshiva University and is discriminatory with respect to the faculty of Teachers Institute for Women.

f) The faculty unanimously agrees that we hold the administration of Yeshiva University legally responsible should there be any infringement of the accepted rights of any and all members of the faculty of Teachers Institute for Women.

g) The faculty further resolves that henceforth all negotiations with respect to terms of employment will be conducted with a duly elected committee of Teacher's Institute for Women as is the practice in other academic institutions and other divisions of Yeshiva University.

h) The faculty of Teacher's Institute for Women has elected the following committee which is empowered to represent the faculty vis a vis the administration in accordance with their resolutions:

Rabbi M. Fulda

Rabbi M. Schnaidman

Rabbi A. Shkop

We trust and expect that we will have the courtesy of receiving an immediate response. In the absence of a response by July 10, 1970 we will assume that our resolutions are acceptable to the administration.

C.C.: Dr. S. Belkin
Dr. L. Levin
Prof M. Silverman
Dr. S. Socol
Rabbi B. Faivelson

EMPLOYER'S EXHIBIT NO. 131

CONSTITUTION
BELFER GRADUATE SCHOOL OF SCIENCE
Yeshiva University

Preamble

This Constitution is established by the Belfer Graduate School of Science to promote the conditions of academic freedom, harmony and responsibility that will most further the contribution of the School to advanced studies in the basic sciences.

ARTICLE I FUNCTION

The Faculty Council shall represent the Faculty and, in general, shall serve in an advisory capacity to the Dean of the School and the President of the University. It shall also have such administrative powers as may be conferred generally or specifically, from time to time, by the Dean and the President. On its own initiative, the Council may discuss and request from appropriate officers of the School pertinent data on, any matters which relate to the interests of the Faculty or to any phase of the welfare of the School, and make appropriate recommendations to the Dean and the President.

The Council shall uphold the freedom of each member as a citizen, a scientist, and a teacher to determine the course and conclusions of his own studies and to express his conclusions on matters that touch upon his discipline.

ARTICLE II MEMBERSHIP

The members of the Faculty Council shall consist of the President of the University, the Dean, the Associate Dean, and full-time Professors, Associate Professors, and Assistant Professors (excluding visiting and adjunct staff) of the Belfer Graduate School of Science.

ARTICLE III. ADMINISTRATION OF THE FACULTY COUNCIL

A. Officers

The officers of the Council shall consist of the Chairman, the Secretary, and the Assistant Secretary.

The Dean shall preside as Chairman *ex officio* at all meetings of the Council.

The Secretary shall prepare the minutes of the Council, and shall issue these minutes, and also the announcement of the next meeting of the Council, to each member at least one week prior to such next meeting.

In the absence of the Dean, a member designated by the Dean shall preside in his place. In the absence of the Secretary, the Assistant Secretary shall serve as his proxy.

B. The Faculty Committee

The Faculty Committee shall be the principal preconsidering, advisory, reviewing and determinative agency of the Faculty Council. Actions of the Faculty Committee shall be subject to ratification by the Faculty Council.

The Faculty Committee shall consist of the President of the University, the Dean of the School, and Faculty Committeemen selected with due regard to representation of various Departments, as specified in the current By-Laws.

ARTICLE IV. MEETINGS

The Dean shall call meetings of the Faculty Committee and of the Faculty Council, in that order, in October and in May, and at any other time that the Dean or the Faculty Committee may decide, or when requested by petition of twenty per cent of the members of the Council.

The Quorums for the Faculty Council and for the Faculty Committee shall consist of at least majorities of their respective members, each of whom shall have one vote. Affirmative votes by a majority of the members present at a meeting shall be sufficient to pass a resolution.

ARTICLE V. ELECTIONS AND APPOINTMENTS

The Dean and Associate Dean of the School shall be appointed by the President of the University after consultation with the Faculty Committee.

All members of the Faculty Council shall be eligible for elective positions, unless specifically stated otherwise.

The Secretary and Assistant Secretary of the Faculty Council shall be elected, by a majority vote of the members present at each October meeting, or at a meeting called when a vacancy occurs, from among the elected members of the Faculty Committee, and shall serve as Secretary and Assistant Secretary, respectively, of the Faculty Committee.

Nominations for an elective office may be made at the meeting of the election, except that nominations by the Faculty Committee shall be included in the announcement of that meeting.

ARTICLE VI. AMENDMENTS AND BYLAWS

Amendments to the Constitution shall be submitted to the Faculty Council by the Faculty Committee, or by petition of twenty per cent of the members of the Council, for ratification by two-thirds of the members of the Council, as prescribed in the By-Laws.

Changes in and additions to the By-Laws shall be submitted by the Faculty Committee to meetings of the Council, or proposed by motion from the floor at such meetings, for ratification by a majority of the members present and voting.

By-Laws

In Articles of the Constitution and in the By-Laws the words "Faculty" and "Department" refer to all the full-time professors, associate professors, and assistant professors appointed in the relevant group. The expression "two-thirds vote", of a body, designates an affirmative vote by two-thirds or more of the entire membership of that body, by secret ballot if any member so requests, cast at a duly announced meeting of the body, on whose agenda, distributed to the membership one to four weeks prior to the meeting, shall appear the matter being voted upon.

I. *The Faculty Committee* shall consist of

The President;

The Dean;

The Chairman or Acting Administrator of each Department;

One Representative from each Department, elected by the Department each year before the October meeting or whenever a vacancy occurs. If a Department does not have a Chairman or Acting Administrator, then it shall elect an additional Representative;

One member of each of the Chemistry, Mathematics, and Physics Departments, elected by the Faculty Council at the October meeting or whenever a vacancy occurs.

Elected members of the Faculty Committee shall take office immediately after the October meeting of the Faculty Council.

II. *Special Committees*, to assist the Faculty Committee in the performance of its duties, shall be established by the Faculty Committee as it deems necessary, with the ratification of the Faculty Council in the case of standing committees. Members of such committees are elected by a majority of the Faculty Committee. The

Dean, or a member designated by him, shall be a member of each committee.

III. *Constitutional amendments* must be submitted to members of the Faculty Council at least two weeks in advance of the meeting at which they are to be discussed. Amendments become part of the Constitution when ratified by two-thirds of the members of the Council. If, at a Council meeting, less than two-thirds of the total membership votes for ratification of an amendment, and less than one-third of the membership votes against ratification, then a mail ballot on ratification shall be conducted within one week after the meeting.

IV. Changes in the *departmental structure* of the School, including the establishment of new Departments and the merger or subdivision of existing Departments into new autonomous bodies, shall be made by the President after being proposed by a two-thirds vote of the Faculty Committee, ratified by a two-thirds vote of the Faculty Council, and approved by the Dean.

V. *New Faculty appointments*, including visiting appointments, are made by the President upon recommendation by the Dean and the Department. In addition, the Faculty Committee shall each year consider the number of new Faculty appointments desired by each Department at that time, and make its recommendations. Any situation that shall cause departures from the numbers recommended by the Faculty Committee shall require reconsideration and new recommendations by the Faculty Committee.

Each Department may establish its own procedures for the investigation and recommendation of new Faculty members, except that recommendation by the Department shall require a two-thirds vote of the Department for the proposed appointment and rank. A Department recommendation for appointment is presented to the Dean for approval, consultation with the Department Chairman regarding a proposed salary level for the appointment, and transmittal to the President.

In the absence of approval by the Dean, the Department originating the recommendation may, upon due reconsideration and by a two-thirds vote, submit the matter to the Faculty Committee for review. On the basis of this review, the Faculty Committee may, by a two-thirds vote, recommend the appointment to the Dean, and, after consultation with the Department Chairman regarding salary, the Dean shall transmit it to the President as recommended by the Faculty.

Chairmen of Departments are appointed by the President upon recommendation by the Departments, recommendation by the Faculty Committee, and approval by the Dean. Chairmen shall serve for three-year terms without prejudice to re-recommendation, unless replaced. Each Department shall establish its own procedures for the investigation and recommendation of a Chairman, except that prior close consultation with the Dean is assumed and that recommendation by the Department shall require a two-thirds vote of the entire Department. A Department should normally start considerations on a recommendation for Chairman at least one semester before the term of the incumbent Chairman expires. If a Department cannot, by a two-thirds vote, arrive at a recommendation for Chairman by the time the term of the incumbent Chairman expires, then the Department may make a recommendation for an Acting Chairman, who would serve for a one-year term, by a majority vote. A Department recommendation for Chairman or Acting Chairman is presented to the Faculty Committee for review. On the basis of this review, the Faculty Committee may, by a two-thirds vote, recommend the appointment to the Dean for approval and transmittal to the President.

A Department recommendation for the replacement of a Chairman during his term of office shall require a two-thirds vote of the Department as well as a confirming two-thirds vote of the Department at a Department meeting which must be scheduled between three and six weeks after the first such vote is cast. A Department recommendation for the replacement of a Chairman is treated in the same manner as is an ordinary recommendation.

Wurzweiler School of Social Work
Faculty Fall 1974-5

Full Time	Part Time	University
Dr. Solomon H. Green (Acting Dean)	Mrs. Ruth Brooks	
Dr. Aaron Beckerman	Mrs. Connie Gale	Dr. Howard Isaacs (AECOM)
Dr. Lewis Chartock	Mr. Mel Gottlieb	
Prof. Stephen Donshik (SC and EMC)		
Prof. Harriet Feiner	Dr. Jerry Hochbaum	Miss Susan Maizel (Y.C.)
Prof. David Goldenberg	Miss Sandra Kahn	
Prof. Sam Goldstein (Coordinator - Field Instruction)	Dr. Eli Levy (on grant)	
	Mr. Leon Luchansky	
Dr. Esther Lentschner (Dir. Admissions)	Miss Lillian Margolin	
	Mr. Morton Mintz	
Dr. Louis Levitt	Dr. Milton Nobel	
Dr. Irving Levitz (on Grant)	Mrs. Catherine Reissman	
Dr. Charles Levy	Dr. Harry Schatz	
Dr. Norman Linzer	Mrs. Shellee Berman	
Prof. Murray Raim	Mrs. Malkah Sternberg	
Dr. Joel Sacks		
Dr. Lloyd Setleis		

Full Time

Prof. Norman Tokayer

Dr. Celia Weisman

Prof. Everett Wilson

WURZWEILER SCHOOL OF SOCIAL WORK

CATALOG 1974-76

YESHIVA UNIVERSITY

WURZWEILER SCHOOL OF SOCIAL WORK

Administration

Solomon H. Green, D.S.W. — Acting Dean
Norman W. Twersky, M.S. — Assistant Registrar

Faculty

Esther Appelberg, Professor of Social Work. M.S.S.A., D.S.W., Case Western University.

Aaron H. Beckerman, Associate Professor of Social Work. B.A., New York University; M.S.W., University of Pennsylvania; D.S.W., Columbia University.

Lewis C. Chartock, Associate Professor of Social Work. B.A., State University College at New Paltz; M.S.W., Hunter College; Ph.D., Bryn Mawr College.

Stephen G. Donshik, Assistant Professor of Social Work. B.S., M.S.W., Adelphi University; Certificate in Jewish Communal Studies, Hebrew Union College—Jewish Institute of Religion.

Harriet Feiner, Assistant Professor of Social Work. B.A., Hunter College; M.S.W., Yeshiva University.

David M. Goldenberg, Assistant Professor of Social Work. B.A., M.A., Tuffs University; M.S., Columbia University.

Samuel M. Goldstein, Associate Professor of Social Work; Field Instruction Coordinator. B.A., Brooklyn College; M.S.W., Tulane University; Advanced Social Work Curriculum Certificate, University of Pennsylvania.

Solomon H. Green, Professor of Social Work. B.A., Brooklyn College; M.S.S.A., Case Western Reserve University; Advanced Social Work Curriculum Certificate, D.S.W., University of Pennsylvania.

Esther M. Lentschner, Associate Professor of Social Work; Admissions Officer. B.A., M.A., Ratcliffe College; M.S.S.A., Case Western Reserve University; D.S.W., Columbia University.

Louis Levitt, Associate Professor of Social Work. B.S.S., City College of New York; M.S., Columbia University; D.P.A., New York University.

Irving N. Levitz, Assistant Professor of Social Work. B.A., M.H.L., Ph.D., Yeshiva University; M.A., New School for Social Research.

Charles S. Levy, Professor of Social Work. B.S.S., City College of New York; M.S.W., Wayne State University; D.S.W., Columbia University.

Norman Linzer, Associate Professor of Social Work. B.A., M.S.S., Yeshiva University; M.S., Ph.D., New School for Social Research.

Murray Raim, Assistant Professor of Social Work, B.A., Brooklyn College; M.S.S.A., Case Western Reserve University.

Joel G. Sacks, Associate Professor of Social Work. B.A., Brooklyn College; M.S.W., New York University; D.S.W., Columbia University.

Lloyd Setleis, Professor of Social Work. B.A., Long Island University; M.S.W., Advanced Social Work Curriculum Certificate, D.S.W., University of Pennsylvania.

Norman Tokayer, Assistant Professor of Social Work. B.A., M.S.S., Yeshiva University.

Celia B. Weisman, Associate Professor of Social Work. B.S., M.S., Temple University; M.S.W., University of Pittsburgh; D.S.W., Columbia University.

Everett E. Wilson, Professor of Social Work. B.S., Pennsylvania State Teachers College; M.S.W., University of Pennsylvania.

PART-TIME FACULTY

Ruth Brooks, M.S.S., Columbia University.

Mel Gottlieb, M.S.W., Yeshiva University.

Connie Gale, M.S.W., Adelphi University.

Jerry Hochbaum, Ph.D., New York University.

Howard Isaacs, M.D., Albert Einstein College of Medicine, Yeshiva University.

Sandra Kahn, M.S.S., Columbia University.

Leon Luchansky, M.S.S., Columbia University.

Susan Maizel, M.A., University of Pennsylvania.

Lillian Margolin, M.S.W., Adelphi University.

Morton Mintz, B.A., Cooper Union for the Advancement of Science and Art.

Milton Noble, D.S.W., Columbia University.

Catherine Riessman, M.S.W., Yeshiva University.

Harry Schatz, Ph.D., New York University.

Yeshiva University

Yeshiva University is a private institution under Jewish auspices chartered by the State of New York; it is accredited by the Middle States Association of Colleges and Secondary Schools and by specialized professional agencies and is a member of the College Entrance Examination Board. It offers programs leading to associate's, bachelor's, master's, and doctoral degrees.

In addition to its extensive teaching programs, the University maintains a network of affiliates, issues publications, and conducts a widespread program of research, community service agencies, and a museum.

Yeshiva University traces its origins to Yeshiva Eitz Chaim, founded in 1886 on New York's Lower East Side. Ten years later the Rabbi Isaac Elchanan Theological Semminary was founded there, and in 1915 the two schools merged under the name of the latter.

Under the dynamic leadership of Dr. Bernard Revel, who served as president from 1915 until his death in 1940, the institution embarked on a plan of educational development and growth. In 1929 the institution moved to its present Main Center in Manhattan's Washington Heights. Liberal arts programs began with the establishment of Yeshiva College in 1928, and the first graduate curriculum was introduced in 1935.

The election of Dr. Samuel Belkin as president in 1943 inaugurated a new era of expansion. University status was granted two years later by the New York State Board of Regents. The institution initiated programs of professional education, research, and special projects to advance the well-being of many constituencies. In 1954 a college of liberal arts and sciences for women was founded and, in more recent years, graduate schools of science, medicine, social work, and humanities and social sciences. A charter amendment granted by the State in 1974 enabled the University to proceed with plans to establish the Benjamin N. Cardozo School of Law.

The University's five undergraduate schools and seven graduate schools are located in Manhattan (Main Center,

Washington Heights; Midtown Center, 245 Lexington Avenue; Brookdale Center, 55 Fifth Avenue) and the Bronx (Eastchester Road and Morris Park Avenue). The Main, Midtown, and Bronx Centers have dormitory and dining facilities. Each school is so conducted as to assure friendly, informal, and educationally sound relationships between students and faculty. All units thus retain the character and virtues of small institutions.

The Mendel Gottesman Library at the Main Center is a $5,000,000, six-story, block-long central university library with a capacity of 500,000 volumes. Components include the Pollack Undergraduate Library, Mendel Gottesman Library of Hebraica-Judaica, Archives, and Rare Book and Manuscript Room. The Midtown Center Library strengthens undergraduate academic programs there. In addition there are three libraries which serve the special needs of the graduate schools: Better Graduate School of Science Library, Graduate Center Library, and D. Samuel Gottesman Library of Albert Einstein College of Medicine.

Its present programs and plans for the future reflect Yeshiva University's ever-growing concern with America's most pressing needs. For more than eight decades the University has taken a position of leadership in higher education, serving the community and the nation as a whole.

Wurweiler School of Social Work

Wurzweiler School of Social Work, established in 1957, represented the culmination of efforts which persisted over half a century to establish Jewish-sponsored social work education. It is the first graduate social work educational program under Jewish auspices in a university setting. The School is accredited by the Council on Social Work Education.

The moral, ethical, and spiritual foundations of social work are of special interest to the School. Particular emphasis is placed on the infinite worth of each individual and the obligations of social justice as the base for social work values—principles basic to Judaism.

The student of culture in relation to social work generally, and the study of Jewish cultural forces affecting social welfare within the Jewish community specifically, are integral parts of the School's program.

Relationships are maintained with the general field of social welfare—locally, nationally, and internationally—as well as with Jewish communal services both at home and abroad.

The School prepares both men and women for service in the Jewish and general community. A two-year graduate program of full-time study is offered, leading to the Master of Social Work degree. Students who already hold a master's degree may pursue a program beyond the M.S.W., leading to the Doctor of Social Welfare degree.

The objective of the Master's degree program is to educate students so that they may become competent social workers with the necessary knowledge, attitudes, and skills for beginning practice in a variety of settings. It aims to prepare well-qualified persons who will have a deep sense of social responsibility and a foundation, both in motivation and understanding, from which they can continue to pursue new knowledge and so render more effective social service. Graduates are expected to combine a high quality of skill in the social work processes with deep concern for social policies.

The objective of the Doctoral degree program is to further the education of selected social workers for creative and scholarly leadership in social work practice, education, social policy, planning, and research, particularly in Jewish communal service.

LIBRARY

Students may utilize the resources of the Graduate Center Library. The social work section includes the library of the Training Bureau for Jewish Communal Service, terminated in 1951. Special collections are the William Posner Collection on the Care of the Aging; William Steinberg Collection on Community Organization, which honors the memory of an alumnus; and Martha Selig

Collection of Judaica of interest to social workers, based on a fund contributed by her friends in honor of her distinguished career in Jewish communal service. In addition, study and research materials are available at five other Yeshiva University libraries.

ALUMNI ASSOCIATION OF WURZWEILER SCHOOL OF SOCIAL WORK

The Alumni Association of Wurzweiler School of Social Work enables graduates to maintain close relationships with fellow students and faculty members and to aid in the development of the School. Through meetings and various other events, members share mutual professional interests and knowledge. *The Jewish Social Work Forum*, a journal published by the Association, provides professional articles of concern to persons engaged in this field.

The operations of the Alumni Association of Wurzweiler School of Social Work and all other University alumni groups are coordinated by the Alumni Office, Yeshiva University, 500 West 18th Street, New York, N.Y. 10033.

SOCIAL WORK AS A PROFESSION

The profession of social work offers a promising career to men and women who are interested in human service. The development of social welfare services in recent years has created a demand for qualified personnel. The improved status of social work as a profession has raised salary standards to the highest point in the history of social work. Openings exist in government and voluntary agencies, with positions available in the Jewish field in this country and abroad, where there is an increasing demand for professionally prepared personnel with knowledge of Jewish communal institutions and values.

Social workers, engaged in the exacting task of serving their fellow men, require both knowledge and skill. Much of this knowledge comes increasingly from the human sciences which undergrid the various human service professions. The Master's degree program provides the requisite knowledge and develops the essential skills for

beginning practice. Contemporary social and professional problems confronting social work in particular and society in general require—at the Doctoral level—scholarly practitioners and leaders to work for constructive solutions.

The profession of social work answers with a ringing affirmative the Bibical question, "Am I my brother's keepers?" The social worker's daily activities not only test his capacity and commitment, but provide a vital demonstration of his deep belief that all men are brothers and that he is dedicated to their service.

CURRICULUMS

Master of Social Work

The Master of Social Work degree program is organized in accordance with the curriculum policy of the Council on Social Work Education. Areas of concentration are offered in social group work, social casework, and community social work. Courses are grouped under the following headings: Social Work Practice, Social Services, Man-in-Society. The School has enriched the basic curriculum by including content designed to provide the student with knowledge and understanding of the purpose and ethos of Jewish social services.

Social Work Practice

The student gains a knowledge of social work practice through a planned sequence of courses designed to stimulate a scientific attitude of mind and a disciplined approach to social problems and human relationships. Class and field instruction are integrated and provide continuity in learning and progression from the simple to the more complex. Such progression has its best beginning in person-to-person, person-to-group, and person-to-community practice in which the interplay of social influences and psychological forces may be observed with greatest clarity. In this practice the student learns to utilize professional methods and to apply his increasing knowledge in the most effective manner.

In addition to the concentration which the student selects in social casework, social group work, or community social work, opportunities are provided for developing familiarity with the other methods in social work practice. The School emphasizes research as part of professional education and social work practice.

Class and field instructors share responsibility for assisting the student to develop proficiency in using professional skill and knowledge about individual and group behavior and social organization.

Social Services

A deep understanding of the social services is acquired through study of current social-welfare programs under public and voluntary auspices, together with their historical development and progress toward meeting the needs of the people. This area includes: study of the social services as they are affected by social, legal, political, and economic influences; evaluation of the social services in relation to the social and individual needs which they are designed to meet; analysis of the contributions of social work leaders; and an appraisal of the role of the social work profession in the formulation and execution of progressive social policy. Attention is given to the range, variety, and interrelationships of social welfare programs and their actual implementation in the light of accepted standards. To prepare the student for professional practice in the Jewish community, the philosophy, structure, and programs of Jewish communal institutions are studied.

Man-in-Society

The study of human behavior provides an indispensable base for all social work activity. Opportunities are afforded for the student to develop insight into his own feelings and behavior in order to foster self-understanding for professional use of self. Physical, mental, and emotional growth are considered in the light of social, cultural, and spiritual influences upon the development and functioning of the individual. This requires study of

the individual from the primary patterning of early family relationships through the subsequent periods of life. Study of the interaction between the individual and his environment accompanies consideration of each stage of development. Attention is also given to deviations from the normal as manifested in social and emotional difficulties, and in physical or mental disability. Basic knowledge and understanding are acquired concerning group behavior and group relationships as they affect or are affected by the personalities, needs, and interests of the group members. Stress is placed on understanding personality-in-culture, with particular attention to the Jew in American society as a special instance of man-in-society.

AREAS OF CONCENTRATION

The student's choice of an area of concentration—social group work, social casework, or community social work—determines the nature of the field placement and the sequence of practice courses. All students follow the same program of study in Social Services and Man-in-Society regardless of their area of concentration.

STUDENT ADVISING

To help carry forward the individualized nature of the School's program, each student is assigned a faculty adviser who works closely with him in all aspects of his relationship to the School. Faculty advisers hold periodic conferences with students and field instructors, and are readily available for consultation.

FIELD INSTRUCTION

Social work is a "doing" profession. Therefore students learn through supervised field practice in social agencies. The field instruction requirement for the Master's degree includes a minimum of 1,260 hours of field instruction concurrent with classroom courses. Ordinarily each student has a placement of at least 630 hours (three days, or 21 hours, per week) during each academic year. This

affords the opportunity for practical educational experience in two different agencies.

The social welfare resources of the metropolitan area offer a wide variety of field placement opportunities in excellent agencies under well-qualified supervisors. Students are placed on an individual basis and close liaison is maintained between the student's faculty adviser and his field instructor.

Doctor of Social Welfare

The Doctor of Social Welfare degree program is designed to further the education of selected social workers for creative and scholarly leadership in social work practice, education, social policy, planning, and research, particularly in Jewish communal service.

Candidates integrate practice experience with concepts drawn from the knowledge base of social work and related disciplines. Content and direction of elective and required seminars are developed by students and faculty to satisfy individual interests and requirements.

Contemporary social and professional issues confronting social work, with special significance for Jewish communal service, provide a focus for the understanding of social work philosophy, knowledge, and values. Through independent and creative scholarship, candidates examine, clarify, and evaluate the appropriateness of social work practice as an institutionally based professional activity within the structure of American society and Jewish communal life.

Field study, required in the Residence Year, offers the opportunity to test social work methods and programs in selected social agencies, schools of social work, and community colleges through systematic innovation and experimentation.

A limited number of candidates will be admitted to the program on a part-time basis.

Special Programs

In cooperation with the Federation of Jewish Philanthropies of New York, the School introduced in 1972 a community social work concentration. This two-year program leading to the Master of Social Work degree is parallel to the existing social casework and social group work concentrations. In addition to financing the School's William E. Wiener Chair in Jewish Communal Organization, the Federation is making its lay and professional leadership and network of services available for field instruction and educational enrichment opportunities. A limited number of fellowships are available.

The Social Work in Community Mental Health Program, through a grant of the Public Health Service (U.S. Department of Health, Education, and Welfare) enables the School to a) enrich its educational program through content in the area of community mental health practice; b) encourage development of and experimentation with new forms of comprehensive mental health services to areas with high-density poor, and with minority groups, oriented toward preventive and crisis treatment; and c) increase the number of M.S.W. social workers competent to work effectively and skillfully in community mental health settings. The grant recognizes the special Jewish purpose of the Wurzweiler School: to educate professionals to work with unique Jewish ethnic and religious problems as they affect mental health, and to assure that ethnic and religious affirmation has constructive social and psychological consequences for the individual and his community.

Through a National Institute of Mental Health training grant, the Special Learning Opportunities Program enables candidates for the Doctor of Social Welfare degree to study a wide range of current concerns and developments in community mental health and mental health research and consultation—thus enriching the degree programs at the School. Particular attention is given to community mental health program developments, with reference to the changing patterns of Jewish communal life and the role of ethnic minority groups, women, and

other indigenous leaders engaged in mental health services.

The Social Group Work Training Project is conducted in collaboration with the East Flatbush-Rugby Young Men's and Young Women's Hebrew Association. The project is designed to explore the relationship between a social agency and a school of social work in the social work educational process. It aims to improve this relationship to enhance the quality of the education offered at the Wurzweiler School.

Begun in 1971 as an experiment and cosponsored by the Jewish Agency and American Zionist Youth Foundation, the Joint Social Work Program in Israel is moving toward permanent status. Plans are underway for an annual program to provide qualified and committed young social workers for Jewish social agencies in Israel and the United States. To facilitate individualized experience, as well as optimum educational quality control and cost effectiveness, 15-20 students will be enrolled. The year-round program coordinator is to be an Israeli social work educator. Working relationships have been established with key Israeli social work institutions, in education as well as in practice. Eligibility requirements include one year of a Master of Social Work program, knowledge of the Hebrew language, and references confirming abilities and Jewish interests.

Aided by a grant from the Atran Foundation, the School invites outstanding leaders in social welfare to give lectures from time to time.

Having helped to initiate social work education programs at the University of Zambia in Africa and Bar-Ilan University in Israel, the School has a special interest in social work and social work education in Israel, Africa, and other parts of the world.

Degree Requirements

Master of Social Work

Requirements for the degree of Master of Social Work include:

1. Minimum of 21 lecture courses.
2. Four courses of field instruction, totaling a minimum of 1,260 hours.
3. A substantial written document, required at the end of the second year as a culminating, integrative work reflecting the student's experience in class and field.

Courses meet at least 110 minutes a week for a semester of 15 weeks (including examinations) or the equivalent time. The normal program in a semester is five courses plus field instruction (at least 21 hours a week). For transfer and other relevant purposes, each course may be considered as carrying 2 credits and field instruction 6 credits each semester.

All requirements must be completed within five years after admission.

Doctor of Social Welfare

Requirements for the degree of Doctor of Social Welfare include:

1. Minimum of 18 lecture courses at the School, plus 2 electives from schools or programs outside the Wurzweiler School, chosen with the adviser's approval. These electives are derived from or related to the student's scholarly interests as reflected in the dissertation; the student must apply for them on Form P9, available in the Office of the Registrar.

   The first year of studies must be spent in full-time residence. During this period, two days each week are devoted to academic study and a minimum of two days each week is spent in field study.
2. Two courses of field study.

3. Oral and written comprehensive examinations, focusing on the plan of study that is required at the conclusion of the Residence Year.
4. Preparation and defense of a satisfactory dissertation (in the form of course SW 390.1, 390.2).

Regulations

Grades

The work of each student is graded on the following basis:

P Passed

F Failed

G Dropped by student (equiavelent to failure)

Inc Incomplete

M Missing (no grade reported)

V Visitor (registered for course; no qualitative grade assigned)

W Withdrew without penalty

Y Year course; June grade applies to both semesters

Withdrawal from courses requires the permission of the Office of the Dean. Unless this permission is obtained, the student will receive a G in those courses from which he has absented himself. Except under unusual circumstances, withdrawal from a course is not permitted after the first month of sessions.

Students graded Inc must complete the required work within two weeks of the close of the semester, unless permission for an extension is granted by the instructor and approved by the Office of the Dean.

Dissertation courses are graded as follows:

S Satisfactory progress; credit granted when dissertation is accepted

P Passed; dissertation accepted

R Repeat; student must retake course

Leaves of Absence

Students who are unable to return to the School because of government service, illness, personal or certain academic reasons, or who wish to study at other institutions, must request a formal leave of absence on Form M13 if they expect to return at some future time. Students who discontinue their studies without such written approval may be denied readmission.

Three types of leaves are available:

1. *Leave with maintenance of status*—for students who are not registered for courses but are preparing for examinations or working on dissertations.
2. *Leave with maintenance of registration*—for students who are not registered for courses and are not preparing for examinations or working on dissertations.
3. *Government service leave of absence*—for students entering full-time service in the armed forces or in ACTION (Peace Corps and VISTA). No charge is made for such a leave during the period of actual service.

Sympathetic consideration will be given to a request by a student returning from an official leave who wishes to continue his course of study under the requirements in force at the time he was granted the leave.

Except for the purpose of government service, leaves will normally be granted for a maximum of two semesters.

Students must file for leaves of absences by the end of the late registration period of the semester for which the leave is desired. A student who neither registers nor secures an official leave of absence for any semester will be considered as having withdrawn from the School. Such a student who wishes to resume his studies will be required to apply for readmission.

The schedule of fees appears on page 25.

Records and Transcripts

A transcript is not issued for a student without his written request, except to another school or to a government agency. In these cases, transcripts are issued upon the request of the school or agency. A transcript is not sent to an employer or prospective employer without the student's permission.

Records of students are sent only in the form of a transcript. No partial records are sent, or ones listing only courses without grades.

A transcript will not be issued for a student who has an overdue debt to the University or has failed to return all books to the Libraries.

A student who wishes to change either his first or last name on School records must file Form M25 in the Office of the Registrar.

Students who believe that there is an error in their academic record (e.g., in a grade, average, credit value, or course description) must promptly call this to the attention of the Office of the Registrar. Even if there has been a mistake on the part of the University, no request for a correction will be entertained unless the student notifies the Office of the Registrar within three months.

Diplomas

Duplicate of revised diplomas can be secured under certain circumstances determined by the standards accepted by American universities. Full information is given on Form G15, available in the Office of the Registrar.

Change of Address

Students who change their home or local residences are required to notify the Office of the Registrar of the change of address within 10 days on Form M29. A student is responsible for all mail sent to his old address is he has not so notified the University.

Graduation

Commencement exercises are held each June at the close of the academic year. Diplomas are issued thereafter. However, degrees may be awarded at the close of the summer, fall, and spring terms. A student applies for a degree by filing a Graduation Kit during the registration period of the term during which he expects to complete all requirements for the degree. Final dates for filing are listed in the Academic Calendar.

Should the degree not be awarded during that term, a Graduation Kit must be refiled *every term* until the degree is awarded. Graduation fees paid initially remain valid for an additional three consecutive terms and need not be paid again unless more than two years elapse between payment and award of degree.

Student Responsibility

It is the responsibility of each student to ensure that he has observed all regulations, paid all fees, and met all course requirements, including prerequisites whenever such are required. The degree candidate should note that completion of the specified number of credits does not in itself satisfy degree requirements.

Academic Discipline

The admission of a student, his continuance upon the rolls of the School, the receipt by him of academic credits, his graduation, and the conferring of any degree, diploma, or certificate upon him is entirely subject to the disciplinary powers of the School and to the student's maintaining high standards of ethical and scholarly conduct. The School is free to dismiss him at any time for infringement of these standards.

Messages

The School cannot transmit personal telephone messages to students except in dire emergency. Students should instruct their friends and family not to telephone them at the School.

Injuries

All injuries and accidents to students while engaged in classroom work will be reported by the faculty member in charge of the course. Students are required to report immediately to the Office of the Dean any other injury suffered on University premises.

Posters and Notices

All posters and notices must be countersigned by the appropriate administrative officer of the School before they are displayed. Students should regularly examine School bulletin boards for official notices.

Use of the University's Name

No student or student organization may use the name of the University or of the Wurzweiler School in print for any purpose, including identification, without written permission from the Office of the Dean.

Admission Procedure for Regular Students

There is only one category of students accepted into the degree programs at Wurzweiler School of Social Work—Regular students. These are students who have met the admission requirements and have been accepted as candidates for the degree of Master of Social Work or Doctor of Social Welfare.

Under the admission policy of the University there is no discrimination in regard to sex, religion, age, race, color, or national origin.

REQUIREMENTS

Master of Social Work

1. A bachelor's degree or its equivalent from an accredited college or university.
2. Capability of performing graduate work, as indicated by satisfactory grades in undergraduate courses.
3. Personally suitable for the social work profession.

4. Good health, as indicated by a physician's certificate based on a complete physical examination.

Doctor of Social Welfare

1. A master's degree in social work from an accredited college or university. Applicants without this degree may be considered for admission but may be required to complete specified work at the master's level before admission to doctoral candidacy.
2. Intellectual competence, evidenced by superior performance in previous academic work.
3. At least three years of successful professional social work experience.
4. Personality attributes suitable for creative and scholarly leadership.
5. Good health, as indicated by a physician's certificate based on a complete physical examination.

ADMISSION PROCEDURE

1. Candidates considering applying for admission may wish to talk with the faculty of the School. Admission forms can be secured during the course of these inquiries or in response to written, personal, or telephone requests.
2. The application for admission, with the required fee, is to be sent to the Admissions Officer of the School. Two official copies of transcripts from each graduate and undergraduate school attended are to be sent directly to the Admissions Officer.
3. Students are admitted only for the Fall Semester. Applications should be filed before February 1 of the year in which the candidate wishes to enroll. (A limited number of selected candidates may receive early notification of the decision on their application; qualified candidates applying after February 1 may be given consideration as late applicants.)

4. All applications are given full consideration and are carefully reviewed after necessary documents and transcripts have been received. The School makes an effort to interview applicants. For candidates whose residence does not readily permit an interview in New York, arrangements can be made for interviews elsewhere.
5. Candidates for the Master's degree are not admitted with conditions.
6. Notifications of acceptance include the requirement that a deposit of $50 be paid on receipt of the notification. This deposit is applied to the Fall Semester tuition and not refundable. Failure to pay the deposit within two weeks of notification is deemed to constitute a withdrawal.

Since School facilities are limited and the program requires small classes and individual attention to students, the number of candidates that can be admitted is less than the number of those qualified. The Admissions Committee carefully evaluates each candidate, taking into account the application material, academic record, references, and impressions of the admissions interviewer. Decisions of the Admissions Committee are final.

ADVANCED STANDING

Students wishing to transfer or enter with advanced standing are required to meet the criteria for admission and to follow the degree requirements set by Wurzweiler School of Social Work.

Transfer credit can ordinarily be granted only for work done at another accredited school of social work within five years of the date credit is requested.

All evaluations of work done elsewhere are tentative and subject to re-evaluation on the basis of the student's work at Yeshiva University. Credit is not automatically granted; both the Wurzweiler School and the Office of the

Registrar must aprove is appropriateness to the degree sought at the Wurzweiler School. Transfer credits may be revoked, either in whole or in part, if subsequent work, either generally or in a particular subject, is not satisfactory.

Every request for advanced standing will receive full consideration to determine what may be credited toward the degree awarded by this School, based upon evidence of the student's previous academic standing and achievement.

The School's program is in keeping with its particular objective of preparing social workers for Jewish communal service. Accordingly it is unlikely that a transfer student who has completed the first year at another school of social work can meet all the master's degree requirements in one academic year.

EXTENDED PROGRAM

A special program is available for a limited number of Master's degree candidates who cannot meet all requirements in two years of full-time study. This program is individually designed to meet the needs of married women with children but is not limited to persons in that category.

Extended Program students have a maximum of five years in which to complete the degree requirements. A limited number of selected courses may be taken on a part-time basis. Some courses must be taken concurrently with field instruction.

There is no diminution in the degree requirements or expected standards of performance for Extended Program students.

Student Finances

TUITION AND FEES

Tuition for full-time Master's degree candidates is $1,150 per semester.

Tuition for full-time Doctoral degree candidates is $1,350 per semester.

Tuition for each semester course is $150 per semester.

Tuition for Extended Program students will be computed on a per-course basis, with field instruction considered as equivalent to three semester-courses ($450 per semester).

The application for admission fee is not refundable and is not credited on any subsequent bill.

Application for Admission (Master's and Doctoral Programs)	$25.00
University Registration Fee, per semester	25.00
Student Activities Fee, per year	10.00
Dissertation Fee, D.S.W. (payable on notification of candidacy)	350.00
Graduation Fee, M.S.W., D.S.W.	25.00
Transcripts of Record, each, regular service	2.00
special service	5.00
Late Registration or Change of Program Fee	10.00
Maintenance of Registration	
Per semester	20.00
Per year	35.00
Maintenance of Status (D.S.W.), per semester	90.00

University regulations require the payment in full of all tuition and fees in order to complete registration. Make checks or money orders payable to Yeshiva University. All payments must be made directly to the Office of Student Finances; no one else is authorized by the University to accept payments. All outstanding accounts for previous academic work in any division of the University must be cleared before registration for additional credits can be approved. Students will therefore not be permitted to register until all outstanding balances have been paid.

WITHDRAWAL

Students who withdraw within the first month of sessions are eligible for a refund of 75% of the tuition paid. Registration and other fees are not refundable. Students who withdraw after this date are not eligible for a refund and are responsible for the full tuition for the entire semester.

To receive a refund the student must submit a written request to the Office of Student Finances and surrender the Student Identification Card.

FINANCIAL AID

The School makes every effort to help students who require financial assistance. Since the program of study in social work is a heavy one, part-time employment is inadvisable. University loans, covering all or part of tuition, may be granted to a limited number of students. Some agencies which offer field instruction opportunities provide agency stipends to students. Scholarships and loan funds, administered by national and state agencies, may be available.

Since eligibility requirements vary considerably, candidates are urged to discuss their personal circumstances with the School's Admissions Officer. They may also consult with the Office of Student Finances.

Students should be aware of employment commitments and other conditions under which study grants are made, and consider their professional interests as well as their circumstances and needs.

The School selects the recipients of mental health and child welfare traineeships. In addition, some agencies request that the School designate the candidates to be recommended for scholarships. Students are therefore asked to aply to the School for these scholarships rather than to the granting agency, although the final selection is generally made by the agency.

The family of the late Naomi Anolic, a 1969 graduate of the School, has established a tuition scholarship of $500 in her memory. Colleagues of Leah Chinitz, a 1968 graduate, have established a Loan Fund in her memory.

Students preparing for Jewish communal service may direct inquiries about student aid to the National Jewish Welfare Board, 15 East 26th Street, New York, N.Y. 10010; Council of Jewish Federations and Welfare Funds, 315 Park Avenue South, New York, N.Y. 10010; and

Federation of Jewish Philanthropies of New York, 130 East 59th Street, New York, N.Y. 10022.

Two useful publications are: "Social Work Fellowships and Scholarships in the United States and Canada," available from the Council on Social Work Education, 345 East 46th Street, New York, N.Y. 10017; and "Grants to Students in Graduate Schools of Social Work," available from the Family Service Association of America, 44 East 23rd Street, New York, N.Y. 10010.

National Direct Student Loan Program

The National Direct Student Loan Program was authorized by the National Defense Education Act of 1958 Title II, and amended by the Higher Education Act of 1965. The principal aim of this law is "to insure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States." It provides for the establishment of loan funds from which needy undergraduate and graduate students may borrow on reasonable terms for the purpose of completing their higher education.

New York State Scholar Incentive Award Program

New York State residents attending the School on a *full-time* basis are eligible for Scholar Incentive Awards if they maintain satisfactory academic standing. A full-time student is defined as a student who is registered for a minimum of 12 credits per semester or their equivalent. The stipend varies, depending on family income and tuition, from $100 to $300 per semester. However, the award cannot exceed the amount by which tuition for the semester (not including fees) exceeds $100. Holders of Regents Scholarships or Fellowships may also receive a Scholar Incentive Award, but it cannot be more than the amount by which tuition for the semester exceeds the scholarship or fellowship.

Applications should be filed with the State before July 1 for each academic year but will be accepted up to December 1. Applications for only the Spring Semester

have an April 1 deadline. *Annual* application is required. For further information and application contact the Regents Examination and Scholarship Center, State Education Department, 99 Washington Avenue, Albany, N.Y. 12210.

State-Guaranteed Loans

NEW YORK STATE HIGHER EDUCATION ASSISTANCE CORPORATION

The Higher Education Assistance Corporation was established by New York State to assist qualified students to meet financial need during their years of undergraduate or graduate study. The program makes possible low cost commercial bank loans with very liberal repayment terms similar to those of the National Direct Student Loan Program, New York State residents attending the School are eligible for those loans. For applications and further information write to the New York Higher Education Assistance Corporation, 50 Wolf Road, Albany, N.Y. 12205.

NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY

A loan program somewhat similar to that of New York State is available to residents of the State of New Jersey. For information and applications, residents of New Jersey should contact the Scholarship and Loan Program, State of New Jersey, Department of Education, 175 West State Street, Trenton, N.J. 08625.

Students interested in state-guaranteed loans in other states should contact their state education department.

Wurzweiler School of Social Work - Part Time Faculty

Fall 1974

Name	Rank	No. of credit hrs. in current semester	Semesters worked within last 3 yrs. & no. of credit hrs. for each semester	List P.T. affiliations at other schools of Y.U.	List any outside institution with which individual is known to be affiliated
Lillian Margolin	No Title	1-2 hr course + 12 stud adv	Fall 73) 1-2 hr course Sp 74) + students	-	-
Leon Luchansky	"	Coord. of 1-2 hr course	Fall 73) 1-2 hr course Sp 74) 1-2 hr course)Mentor to students	-	Nursing homes Social work
Shellee Berman	"	1-2 hr course	0	Stern College	-
Malkah Sternberg	"	1-2 hr course	0	-	Hunter College
Milton Noble	"	1-2 hr course	0	-	Social Service Elmhurst Hosp.
Ruth Brooks	"	2-2 hr courses	0	-	N.Y. State Commission to Evaluate Drug Laws
Katherine Reissman	"	1-2 hr course	Fall 73 - 1-2 hr course	-	-
Sandra Kahn	"	1-2 hr course	0	-	Social Worker Midtown YMHA
[illegible]y Schatz	"	1-2 hr course	Fall 72 - 1-2 hr course Fall 73 - 1-2 hr course	-	Jewish Welfare Board
Howard Isaacs	"	1-2 hr course	0	AECOM	-
Mel Gottlieb	"	2-1 hr courses	0	-	Hillel Dir. M.I.T. Cambridge
Jerome Hochbaum	"	1-2 hr course	0	-	Memorial Fdn for Jewish Culture

Name	Rank	No. of credit hrs. in current semester	Semesters worked within last 3 yrs. & no. of credit hrs. for each semester	List P.T. affiliations at other schools of Y.U.	List any outside institution with which individual is known to be affiliated
Morton Mintz	No Title	1-2 hr course	Fall 71) Fall 72) 1-2 hr course Fall 73)	-	Baruch College
~~Susan Maizel~~	"	~~1-2 hr course~~	~~Fall 73) 1-2 hr course~~ ~~Sp 73 -) each sem.~~	~~-~~	~~-~~
Connie Gale	"	1-2 hr course	Fall 73 - 1-2 hr course	-	Social Worker Hillside Hosp.

EMPLOYER'S EXHIBIT No. 138

WURZWEILER SCHOOL OF SOCIAL WORK YESHIVA UNIVERSITY

GUIDELINES FOR THE CREATION AND WORK OF THE COMMITTEE ON ACADEMIC APPOINTMENTS

Submitted by Faculty Personnel Committee

(Revised By Faculty, May 30, 1974
See Minutes of Faculty Meeting)

Introduction

Members of the faculty bear a special responsibility in the process which leads to the selection of individuals who are to be invited to join its membership. As scholars and as experts in the profession, the faculty shares responsibility with the Dean, whose selection has been the product of a similar cooperative effort, and with the President and Board of Trustees of the University. This statement is based on a mutual concern for the excellence of the School and of the University.

Arising from the same consideration, members of the faculty bear a special responsibility for the maintenance of the quality and effectiveness of total faculty performance. The faculty must be equally concerned with the elimination of incompetence and with the rewarding and protecting of the competent. It is for these reasons that the following proposals are made.

1. *Establishment of the Committee on Academic Appointments*

There shall be a Committee on Academic Appointments, responsible to the faculty, which shall make recommendations to faculty with respect to the formulation of policies and procedures concerning appointments, dismissals, re-appointment including tenure, and promotion. With the adoption by faculty of policies and procedures governing these matters, the Committee shall implement these

decisions in accordance with the guidelines indicated below.

2. Election of the Committee on Academic Appointments

The Committee on Academic Appointments shall be elected by faculty. The membership of the Committee shall consist of three members selected from tenured faculty and three members selected from non-tenured faculty, for a total of six. The Committee shall select its own chairman. Each member shall serve a term of three years, except for members elected at the initiation of the Committee's work. Since it is the intent of the faculty that the Committee's membership be rotated, the first group of members shall serve as follows: two for three years, two for two years, and two for one year. The first group of Committee members shall serve during the entire academic year 1974-75. Starting in the academic year 1975-76, the Committee's membership shall change through the election of two members to take the place of those who have been elected for the initial one-year term. The election of new members shall take place during the first month of the academic year. The Dean and Assistant Dean shall not be eligible to serve on the Committee on Academic Appointments.

3. Review of the Committee's Work

A faculty meeting shall be held at least every two years to review the work of the Committee on Academic Appointments with respect to its structure, rules and procedures. The Committee shall take leadership responsibilities in preparing for this meeting and presenting relevant issues to the faculty.

4. Procedures for New Appointments

The Committee on Academic Appointments, in consultation with the Dean, shall designate faculty members to serve as members of an ad hoc committee for the purpose of interviewing and screening candidates and making recommendations with respect to candidates for a particular faculty position. The ad hoc committee shall convey its recommendations in writing to the committee on academic appointments.

Criteria for the appointment of new faculty members shall consist of evaluating the candidate's educational background, previous educational and professional experience, as well as the candidate's potential for meeting the established criteria for faculty effectiveness.

The Committee on Academic Appointments shall make its recommendation in writing to the faculty. See article #10 for further applicable procedures.

New faculty appointment shall not be made at a rank below that of Assistant Professor.

The work of a new faculty member shall be evaluated by the Dean at these intervals:

—Prior to the end of the first academic year

—Prior to the end of three academic years

—Prior to the end of five academic years

Following this time, the procedures for re-appointment to the eighth year, i.e., tenure, shall prevail.

5. Evaluation

The Dean's evaluation of the faculty member shall be based on the same criteria which have been developed for consideration of reappointment for the purpose of granting tenure in Article 8. The Dean's evaluation shall be conveyed to the faculty member in writing and shall be made available to the Committee on Academic Appointments.

Where there is substantive difference with regard to the content of an evaluation, the faculty member may appeal the Dean's evaluation to the Committee on Academic Appointments. The views of the Committee shall be conveyed to the faculty member in writing.

Where the Dean recommends that the appointment of the faculty member be terminated, the period of notice shall

conform to the standards set forth in the University's currently operative tenure statement.

Where the faculty member wishes to appeal the decision of the Dean on termination of the appointment, the following steps shall prevail:

A. The Committee on Academic Appointments shall hear the appeal.

B. The full faculty shall hear a report from the Committee as to its recommendations. The Committee report shall contain a copy of the Dean's recommendations.

C. The University's appeal bodies shall be furnished with a copy of the faculty and the Committee's report and recommendations.

The Dean's decision shall stand unless overruled by the University's review procedures, or altered by the Dean as a result of the review process.

Faculty members appointed on a grant line who wish to become permanent members of the faculty shall be subject to the same procedures for evaluation and for dismissal prior to the end of the planned appointment.

6. Procedures for Reappointment for the Purpose of Tenure

Tenure shall be granted when reappointment to the eighth year is made. Such reappointment shall be based on previous evaluation procedures. Criteria for evaluation are outlined in Article 8.

For faculty members with full-time instructional assignments at the Wurzweiler School of Social Work, time accrued in fulfilling such assignments on a full-time basis, whether financed initially by grant or University funds, shall be equally credited in considering eligibility for tenure. Full-time instructional experience at other comparable institutions of higher learning shall be credited in considering eligibility for tenure in the same manner.

Reappointment Procedures

1. The Committee on Academic Appointments shall request the Dean to inform them of the names of nontenured faculty on University lines prior to the completion of their fifth year of service.

2. During the sixth year of service, the Committee on Academic Appointments shall consider the faculty member's eligibility for reappointment for purposes of tenure and shall report to the faculty no later than the beginning of the second semester. The faculty shall review the Committee's recommendations prior to the Passover recess and shall make its recommendations to the Dean prior to the Passover recess.

3. The faculty member being considered for reappointment for purposes of tenure shall be present during faculty discussion *unless* the faculty member or the faculty decide otherwise. The faculty member shall have the opportunity to respond to a summary of the discussion prior to a faculty vote on the Committee's report.

4. Faculty decisions to accept, modify or reject the Committee on Academic Appointments' report shall be made by secret ballot by majority vote of all full-time faculty members. The Committee's report, and the subsequent faculty recommendations, shall be submitted in writing to the Dean and to the faculty member being considered for tenure.

5. The faculty's recommendation shall be conveyed by the Dean in his recommendation to the President. A copy of the Dean's communication to the President shall be furnished to the Committee and the faculty member being considered for tenure.

6. The Dean and the Assistant Dean shall participate in the faculty deliberation and decision making in the usual manner.

7. The Dean shall make his own determination subsequent to the faculty decision on the Committee's report. Where the Dean's decision is substantively different from the recommendations of the faculty, the Dean shall advise the faculty.

7. Consultation by the Committee on Academic Appointments

A. The recommendations of the Committee on Academic Appointments shall be based on consultation with the Dean and/or Assistant Dean, and the faculty member whose tenure is being considered. The faculty, (student body, and alumni)* shall be advised by the Committee on Academic Appointments that tenure status is being considered for an individual faculty member. Interested faculty, (students, or alumni)* shall have the option of submitting individual statements. The faculty members shall have the opportunity of submitting relevant written materials which bear significantly on the criteria for the granting of tenure.

B. The faculty shall develop regular procedures for periodic faculty evaluation which shall include student assessment of teachers and courses. These evaluations and student assessments shall be made available to the Committee on Academic Appointments by the Dean. (Beyond review of such assessments, the Committee on Academic Appointments and the faculty shall not involve students, directly or indirectly, in consultation or decision making with respect to the granting of tenure.)*

C. It is also assumed that upon faculty acceptance of these guidelines this document shall be made available to all current faculty, and to all new faculty upon appointment.

8. Criteria for Evaluation of Faculty Effectiveness

Each member of the faculty is expected to carry out the stated objectives of the School and to orient his or her teaching to the central objective: education based on practice.

* The inclusion of student body and alumni remains an open question to be decided upon.

A. *As a Classroom Teacher*

1. A teacher should have both a depth and breadth of knowledge covered by courses taught and should be able to communicate this knowledge to students. The teacher should maintain an active interest in knowledge central to the content and be able to utilize such knowledge in a planful manner. The teacher should maintain a critical attitude toward his/her teaching and strive continuously to improve teaching performance.

2. The effective teacher seeks to create an environment that stimluates imaginative thinking. The teacher should have a deep interest in student progress and welfare, and demonstrate this through teaching practice.

3. The teacher should be able to stimulate and guide students in developing their intellectual and emotional capacities in order to gain competence in the professional practice of social work. The teacher should demonstrate an ability to use literature, and emergent student experiences, including classroom activity, to enhance student understanding and application of the concept of conscious use of professional self. The effective teacher creates through the structure and process of the course, the centrality of the concept that all education is based on a self-learning process.

B. *As A Faculty Advisor*

1. The faculty member, as advisor, should have the ability to help the students discover their special aptitudes and needs, assess their educational progress, and thereby maximize learning opportunities. He should be able to assist students to utilize the field work experience to enhance conscious use of professional self, and to develop a theoretical orientation to learning in the field.

2. The faculty advisor should have the ability to assist the field instructor in the educational process of student supervision and to serve effectively as the liaison between the School and the agency.

C. *School Activity*

Scholarly activity should characterize the good teacher. In functioning as a scholar, the teacher is responsible to the University, to the profession of social work, and to society to keep informed about advances in knowledge and to contribute to them. Publication of books, papers, articles, studies and research reports are one form of such scholarship. However, important and valuable scholarly activity may be carried on without necessarily being directed toward publication. Such scholarship may be expressed in a variety of ways including teaching, advising, enriching curriculum; participation in institutes and conferences; providing consultation contributing to social work education and/or practice; and participating in organized professional activities. Through such participation the teacher may increase his effectiveness as a professional social worker, contribute to the improvement of the community, society, the profession, and the University.

D. *University Citizenship*

This is best reflected in the teacher's accessibility to and investment in students, faculty and the institution. In addition, as a participant in University affairs, the faculty member is expected to serve on committees, to carry out special assignments and to participate effectively in School and University activities.

9. Promotions

A. Progression from one rank to another is never automatic. Promotion is a right which is not accorded on the basis of longevity. Attainment of promotion is based upon the established criteria for evaluating faculty effectiveness. Special emphasis is placed on ability as a teacher.

B. Consideration for promotion may be initiated by the Dean, the faculty member himself, or the Committee on Academic Appointments.

C. The Committee shall be supplied with the names of faculty being so considered. The Dean shall submit to the Committee all past evaluations; other relevant material may be submitted with the permission of the faculty member. This file of material shall be available to the faculty member at all times.

D. A report shall be prepared by the Committee based on the findings. The Committee's and Dean's recommendations shall be forwarded to the faculty member and to the faculty itself.

E. Promotions shall be effective at the start of the academic year. This procedure shall not preclude recommendations by the Dean at other times when necessary in the interest of the School.

F. Promotion to Associate Professor shall normally require at least three years of service at the same level of faculty responsibility (it being assumed that changes in responsibility may support reconsideration of rank and possible promotion). However, provision shall be made for special or unusual circumstances.

G. Although promotion to the rank of Professor shall be governed by similar criteria as the other ranks, a higher and sustained level in meeting the criteria is required. Signal contributions in several areas can offset a falling short of the standard set in any one area.

H. Promotion shall ordinarily carry with it a commensurate increase in salary.

I. Any faculty member who has remained at the rank of Assistant Professor or Associate Professor for ten years without promotion to the next rank shall have his status automatically reviewed by the Committee in consultation with the Dean.

10. *Procedures Applicable to Faculty Review of the Recommendations of the Committee on Academic Appointments with Respect to Appointment, Reappointment and Promotion.*

The recommendations of the Committee on Academic Appointments shall be made in writing and conveyed to the faculty. Within two calendar weeks of the circulation of the recommendations, unless any faculty member, including the Dean, requests a review by the entire faculty, the Committee's recommendations shall stand as expressing the views of the faculty to the Dean. A request for fac-

ulty review shall be made to the Dean with a copy to the Chairperson of the Committee. The Dean shall notify the faculty member(s) directly affected by the Committee's recommendations that a faculty review has been requested and shall schedule that review for the next appropriate faculty meeting.

After discussion the faculty shall accept, modify or reject the Committee's recommendations and the faculty's action shall constitute the recommendation to be made to the Dean. The faculty's actions shall be taken on the basis of a majority vote and transmitted to the Dean in writing.

The Dean shall make his own determination subsequent to the faculty decision on the Committee's report. Where the Dean's decision is substantively different from the recommendations of the faculty, the Dean shall advise the faculty.

The Dean shall communicate the views of the faculty, together with his own views, to the President.

SUPPLEMENT

Re: Other Personnel Matters — Unfinished Business of Faculty Personnel Committee
May 30, 1974

The following are issues which need to be addressed and for which policy is to be determined:

1. Faculty involvement in assessing the personnel needs of the School and the formulation of both short-term and long-term plans for meeting these needs.
2. Faculty on grant lines being provided first opportunity for consideration for appointment to University lines.
3. Ongoing evaluation procedures beyond the fifth year of service.
4. See open issue—Article #7.
5. How the appointment process is initiated.

EMPLOYER'S EXHIBIT NO. 139

Bernard Revel Graduate School
Harry Fischel School for Higher Jewish Studies

Faculty Fall 1974 - 75

Department	Full Time	Part Time	University
Bible and Semitic Languages	Dr. Bernstein, Chairman		Dr. Sokolow (YC & EMC)
Hebrew Literature		Dr. Churgin, Chairman	Dr. Leaf (YC & EMC)
Ancient Jewish History		Dr. Hoenig, Chairman	
		Dr. Landman	
		Dr. Reiner	
Medieval Jewish History			Dr. Agus, (YC) Chairman
Modern Jewish History	Dr. Lewin, Chairman	Dr. Grinstein Dr. Nussenbaum Prof. Goldberg Dr. Lindenthal	Dr. Carmilly (YC & EMC) Dr. Herskovics (YC & EMC)
Jewish Philosophy		Dr. Churgin Dr. Stitskin	Dr. Hyman, (University) Chairman
Talmudic Studies	Dr. Feldblum, Chairman		Dr. Hurvitz (YC)

EMPLOYER'S EXHIBIT NO. 140

BERNAD REVEL GRADUATE SCHOOL
AND
HARRY FISCHEL SCHOOL

PART-TIME FACULTY — FALL 1974 - 75

NAME	RANK	NO. OF CONTACT HRS. IN CURRENT SEMESTER	SEMESTERS WORKED WITHIN LAST 5 YEARS & NO. OF CONTACT HRS. FOR EACH SEMESTER	LIST OF PART-TIME AFFILIATIONS AT OTHER SCHOOLS OF Y.U.	LIST ANY OUTSIDE INSTITUTIONS WITH WHICH INDIVIDUAL IS KNOW TO BE AFFILIATED
CHURGIN, G.	PROFESSOR	6	SPRING 72 -3 FALL 72 -6 SPRING 73 -3 FALL 73-74 -6		PART-TIME VASSAR
COHEN, H.	VISITING PROFESSOR	6		EMC	
GOLDBERG, N.	PROFESSOR	6	SPRING 72 -6 FALL 72-73 -6 SPRING 73 -6 FALL 73-74 -6		
GOODSTEIN, M.	INSTRUCTOR	ON LEAVE	SPRING 72 -6 FALL 72-73 -9 SPRING 73 -9 FALL 73-74 -12 SPRING 74 -12		
GRINSTEIN, H.B.	PROFESSOR	3	SPRING 72 -6 FALL 72-73 -3 SPRING 73 -3 FALL 73-74 -3 SPRING 74 -3		
HOENIG, S.B.	PROFESSOR	3	SPRING 72 -6 FALL 72-73 -6 SPRING 73 -3 FALL 73-74 -3 SPRING 74 -3		

LANDMAN, L.	ASSOCIATE PROFESSOR	6	SPRING 72 -6 FALL 72-73 -6 SPRING 73 -6 FALL 73-74 -6		RABBI AT CONG. SECRETARY OF FACULTY B.R.G.S.
LINDENTHAL, J.J.	VISITING PROFESSOR	3	SPRING 73 -3 FALL 73-74 -3 SPRING 74 -3	PART TIME AT Y.C.	RUTGERS. U.
NUSSENBAUM H.	INSTRUCTOR	3	SPRING 73 -3 FALL 73-74 -3 SPRING 74 -3		
REINER, J.	ASSOCIATE PROFESSOR	6	SPRING 72 -3 FALL 72-73 -6 SPRING 73 -6 FALL 73-74 -6		RABBI OF CONG. PART TIME C.W. POST
STITSKIN, L.D.	PROFESSOR	6	SPRING 72 -6 FALL 72-73 -6 SPRING 73 -6 FALL 73-74 -6 SPRING 74 -6		DIRECTOR OF SPECIAL PUBLI-CATIONS YESHIVA UNVIERSITY

FACULTY MEMBERS OF COMMITTEES

BERNARD REVEL GRADUATE SCHOOL
AND
HARRY FISCHEL SCHOOL
FOR HIGHER JEWISH STUDIES

FALL 1974

WELFARE COMMITTEE

Prof. Agus,
Profs. Lewin, Hyman, Feldblum,
Hoenig* and Landman*

REPRESENTATIVE TO COCO

Dr. Leon D. Stitskin*

MUSEUM REPRESENTATIVE

Dr. Hyman B. Grinstein*
Dr Nussenbaum

LIBRARY

Dr. Agus

EVALUATION

Drs. Hoenig*, Hyman, Landman*,
Lindenthal* and Feldblum

DEGREE REQUIREMENTS

Drs. Feldblum, Hyman, Landman*,
Lindenthal*, Hoenig*

PUBLICATIONS

Drs. Stitskin*, Agus

ADMISSIONS

Drs. Landman*, Hyman

UNIVERSITY SENATE

Prof. Leo Landman*
Prof. Elazar Hurvitz, alternate

GRADUATE COUNCIL COMMITTEE

Profs. Feldblum, Hyman, Landman* and
Stitskin*
Prof. Lewin, alternate

ACADEMIC PRIORITIES COMMITTEE

Same as Graduate Council Committee

PH.D. RE-EVALUATION

Drs. Feldblum, Hyman, Landman*,
Lindenthal* and Hoenig*

ARCHIVES

Drs. Grinstein*, Nussenbaum*, Hurvitz,
and Lewin

GRANTS

Drs. Lewin and Hyman

BRGS ANNUAL

Drs. Stitskin*, Agus, Hoenig* and
Landman*

FACULTY EXECUTIVE

Drs. Feldblum, Hyman, Landman*, Lewin
and Hurvitz

* Part-time faculty

EMPLOYER'S EXHIBIT No. 141

EMPLOYER'S EXHIBIT No. 143

A meeting of the BRGS-HFSHJS faculty was held on Tuesday, January 21, 1975, at 1:00 p.m. in room 101, Furst Hall.

Presiding: Dr. Arthur Hyman, Chairman

Present: Drs. Carmilly, Feldblum, Goldberg,* Grinstein,* Hoenig,* Hurvitz, Leaf, Lewin, Lindenthal,* Sokolow and Stitskin*

Administration: Dr. Leo Landman, Sec'y. of the Faculty, Mrs. Pearl Kardon, Recorder

1. The faculty affirmed the decision of the Faculty Executive Committee concerning DHL candidates who could not complete their work by the December 31, 1974 deadline. By signed agreements, all such candidates are automatically excluded from the Ph.D. program. Should one reapply for admission, they will be treated as new students. The Faculty Executive Committee will interview each and treat each one on an ad hoc basis, being extremely careful regarding previous credits, not allowing a DHL dissertation to be used and/or expanded to a Ph.D wherever possible, nor should the same sponsor or committee be allowed.

2. Dr. Hyman extended the best wishes to Dr. Stitskin and welcomed him back after his illness.

3. The MA topic "The Publication of the Federation of American Zionists, 'The Maccabean'" submitted by Adeena Brand was approved. Dr. Grinstein will serve as her sponsor.

4. The problem of a sponsor and committee for Rabbi Marc Angel was again brought to the faculty. Dr. Hyman reviewed the history of the difficulties the administration has had in securing sponsors for him. (Drs. Gaon, Eidelberg, Hoenig, Breger, etc.) Dr. Breger had been appointed as consultant and has sent a letter expressing satisfaction with Rabbi Angel's work.

Dr. Hyman informed the faculty that Dr. Cohen has read the dissertation. He submitted his comments in writing stating that the work must be restructured, limited to the modern period (16-17 centuries) and include the older material as part of an introduction.

Dr. Lewin reviewed the candidate's outline but declined to serve as sponsor. After lengthy discussion, the faculty suggested that we look outside the School for a sponsor.

5. Report of the Committee on Revision of the Ph.D Credit Requirements. The members of the committee were:

   Drs. Feldblum, Chairman: Hoenig, Hyman, Landman and Lindenthal. Student representatives were Rabbis Doniel Kramer and Jonathan Helfand. Report attached.

   It was at this point that Dr. Landman had to leave the meeting. Dr. Lindenthal continued to take minutes.

6. Dr. Hoenig questioned the efficacy of the survey and research courses as presently offered.

7. Dr. Hyman suggested that research seminars should be offered by departments. The setting of standards is in the hands of the faculty.

8. Dr. Lindenthal asked about reading courses. These will be discussed at a future date. An alternate suggestion was offered by Dr. Hoenig,—45 credits be required beyond the MA program for the Ph.D degree. He also stressed the quality of the program.

9. Dr. Feldblum moved to accept the new revised Ph.D. program. It was seconded by Dr. Lewin and passed by the faculty.

The meeting was adjourned at 3:00 p.m.

Respectfully submitted,

Dr. Leo Landman,
Sec'y. of the Faculty

EMPLOYER'S EXHIBIT No. 144

FERKAUF GRADUATE SCHOOL
FACULTY FALL 1974-1975

DEPARTMENT	FULL TIME	PART TIME	UNIVERSITY
Curriculum and Instruction	Asst. Prof. I. Appel Asst. Prof. G. Edelstein Prof. A. Jablonsky Assoc. Prof. L. Kasdon Prof. J. Roberts, Chairman (on leave) Research Asst. Prof. S. Sardy Visit. Prof. E. Shapiro Prof. N. Stillman (acting chairman)	Adj. Assoc. Prof. B. Esrig Adj. Prof. L. Miller Visit. Lect. P. Seidenberg	
Educational Psychology and Guidance	Asst. Prof. A. Givner Assoc. Prof. B. Harris Asst. Prof. J. Kaufman Assoc. Prof. A. Lefford Asst. Prof. J. Weil Prof. L. Zach, Chairman	Lect. C. Bebber Adj. Asst. Prof. B. Doane	Adj. Prof. I. Belmont (Stern) Dist. Prof. of Research J.A. Fishman (Y.U.)
Jewish Education	Prof. M. Brayer, Chairman Assoc. Prof. J. Safran	Adj. Asst. Prof. H. Axelrod Adj. Prof. B. Brickman Adj. Assoc. Prof. N. Bronznick Adj. Asst. Prof. I. Schelpansky Adj. Prof. A. Schiff Adj. Asst. Prof. S. Skaist Dr. A.J. Tannenbaum Stone Saperstein Prof. of Jewish Educ.	
Psychology	Prof. M. Anisfeld Assoc. Prof. A. Atkins Assoc. Prof. C. Auerbach Prof. M. Eagle Assoc. Prof. A. Goldstein Prof. N. Gordon, Chairman	Visit. Lect. A. Cooper Visit. Lect. R. Gill	

FERKAUF GRADUATE SCHOOL
FACULTY FALL 1974-1975

DEPARTMENT	FULL TIME	PART TIME	UNIVERSITY
Psychology (cont'd.)	Assoc. Prof. A. Hershkowitz Assoc. Prof. R. Lesser Assoc. Prof. J. Weiss	Adj. Assoc. Prof. I. Hilton Visit. Lect. Miss C. Kample Visit. Lect. L. Levinger Visit. Lect. E. Levy Visit. Lect. C. Shneidman Visit. Lect. N. Stockhammer Adj. Prof. E. Tauber Visit. Lect. B. Wolstein	
Special Education	Prof M. Bortner Prof H. Goldstein Assoc. Prof. P. Graubard Asst. Prof. K. LeLaurin Prof. M. Miller, Chairman Assoc. Prof. D. Sievers Prof. B. Weiner	Adj. Assoc. Prof. P. Reiss	
Division of Social Sciences	Prof. J.B. Gittler, Dean		Adj. Asst. Prof. L. Keating (Y.U.)

EMPLOYER'S EXHIBIT NO. 145

FERKAUF GRADUATE SCHOOL
PART TIME FACULTY FALL 1974-75

Name	Rank	No. of credit hrs. in current semester	Semester worked within last 3 years & no. of credits for each semester	List P.T. affiliations at other schools of Y.U.	List any outside institution with which individual is known to be affiliated
Axelrod, Dr. H	Adj. Assist. Prof.	3	Fall 1972 3 Spring 1973 3 Fall 1973 3		
Bebber, C.	Lecturer	6			Rutgers Univ. Newark
Brickman, Dr. B	Adj. Prof.	3	Fall 1972 3 Fall 1973 3		Board of Jewish Education
Bronznick, Dr. N.	Adj. Assoc. Prof.	6	Fall 1972 6 Spring 1973 6 Fall 1973 6		Rutgers Univ. New Brunswick
Cooper, Dr. A.	Visit. Lect.	*	Fall 1973		
Doane, Dr. B.	Adj. Asst. Prof.	3	Fall 1972 3 Spring 1973 3 Fall 1973 3		Ardsley Pub. Schs

Esrig, Dr. B	Adj. Assoc. Prof.	3	Fall 1973 3 Spring 1974 3	Bd. of Education N.Y.C.
Gill, Dr. R.	Consul. in Cl. Psych. (visit. lect.)	* **	Spring 1972 Fall 1972 Spring 1973 Fall 1973	
Hilton, Dr. I.	Adj. Assoc. Prof.	6	Spring 1972 3 Fall 1972 3 Spring 1973 3 Fall 1973 3	
Kample, C.	Visit. Lect.	**	Spring 1972 4 1/3 Fall 1972 1 1/3 Spring 1973 4 1/3 Fall 1973 1 1/3	
Levinger, Dr. L	Visit. Lect.	**	Spring 1972 3 Fall 1972 1 1/3 Spring 1973 1 1/3 Fall 1973 1 1/3	N.Y.U. Grad. Sch.
Levy, Dr. E.	Visit. Lect.	*	Spring 1972 Fall 1972 Spring 1973 Fall 1973	

Miller, Dr. L	Adj. Prof.		Fall 1973 3 Spring 1974 6	
		3	Fall 1974 3	N.Y.U.
Reiss, Dr. P.	Adj. Assoc. Prof.	1 1/2	Fall 1972 1 1/2 Spring 1973 1 1/2 Fall 1973 1 1/2	
Schiff, Dr. A.	Adj. Prof.	3	Spring 1972 3 Fall 1972 3 Spring 1973 3 Fall 1973 3	
				Board of Jewish Education
Seidenberg, Dr. P.	Visit. Lect.	3	Fall 1974 3	Bd. of Education N.Y.C.
Shneidman, Dr. C.	Visit. Lec.	*	Spring 1972 Fall 1972 Spring 1973 Fall 1973 Spring 1974	
Shepansky, Dr I.	Adj. Asst. Prof.	3	Fall 1972 6 Spring 1973 6 Fall 1973 3	
Skaist, Dr. S.	Adj. Asst. Prof.		Spring 1972 3 Fall 1973 6	
		3		Board of Jewish Education

Stockhammer, Dr. N.	Visit. Lect.	*	Fall 1973	
Tannenbaum, Dr. A.	Adj. Prof.	2		Teachers College Columbia Univ.
Tauber, Dr. E.	Adj. Prof.	*	Spring 1972 Fall 1972 Spring 1973 Fall 1973	
Wolstein, Dr. B.	Supervisor in Cl. Psych. (Visit. lect.)	*	Spring 1972 Fall 1972 Spring 1973 Fall 1973	

* One of seven instructors who together teach a clinical course.

** One of three instructors who together teach a clinical course.

EMPLOYER'S EXHIBIT No. 149

12/31/74

FERKAUF GRADUATE SCHOOL

Yeshiva University

CURRENT GRANTS

National Science Foundation
Principal Investigator: M. Anisfeld
Grant Number: GB 21280
Period: 5/1/70 to 4/30/75
Amount: $60,400

National Institute of Mental Health
Principal Investigator: N. Gordon (on leave)
Grant Number: 5R01 BA00032 06
Period: 6/1/73 to 5/31/75
Amount: $87,388

National Institute of Mental Health
Principal Investigator: L. Zach
Grant Number: 5T01 MH11102 08
Period: 7/1/74 to 6/30/75
Amount: $45,437

Office of Education
Principal Investigator: M. Miller
Grant Number: OEG o 742637
Period: 6/1/74 to 5/31/75
Amount: $140,000

National Institute of Mental Health
Principal Investigator: M. Eagle
Grant Number: 2T01 MH08207 12
Period: 7/1/74 to 6/30/75
Amount: $73,146

National Institute of Mental Health
Principal Investigator: J. Weil
Grant Number: 1R03 MH25824 01
Period: 2/1/74 to 5/31/75
Amount: $7,419

National Institute of Education
Principal Investigator: J. Weil
Grant Number: NIE G 74 0039
Period: 7/1/74 to 6/30/75
Amount: $24,641

National Science Foundation
Principal Investigator: C. Auerbach
Grant Number: GB 44234
Period: 9/1/74 to 2/28/77
Amount: $33,000

Institute of Jewish Life
Principal Investigator: M. Brayer
Amount: $6,000

EMPLOYER'S EXHIBIT No. 150

3/17/75

FERKAUF GRADUATE SCHOOL

Yeshiva University

EMPLOYEES UNDER CURRENT GRANTS

Eagle (2T01 MH08207 12)

Faculty:

Visit. Lect. Cassata
Visit. Lect. A. Cooper
Visit. Lect. R. Gill
Visit. Lect. E. Levy
Visit. Lect. C. Schneidman
Visit. Lect. N. Stockhammer
Adj. Prof. E. Tauber

Non-faculty Employees:

Ruth Mason (secretary)

Fellowships:

Robert Benedek
Richard Coleman
Thelma Dye
Rosa L. Emerson
Andrew Geller
Robert Kaplan
Virginia Kelley
Eric Mendelsohn
Yvonne Roundtree
Peter Schaeffer
Barbara Springer

Miller (OEG O 742637)

Faculty:

Asst. Prof. K. LeLaurin
Adj. Assoc. Prof. P. Reiss

Non-faculty Employees:

Kathleen McKaig (coordinator CBTE Program)
Beatrice Schwartz (Administrative Assistant)
Sylvia Altman (secretary)

Research Assistants:

Gideon Freudenthal
Carol A. Goldberg
Peter Katsiskis
Hedda T. Koslow
Leah Klapoholz
Laurie E. Shatsoff
Joan S. Myers

Fellowships:

Edmund Hadad
Brian D. Hurwitz
Marvin Stoher
Marian M. Weeks

Weil (IR03 MH258424 01)

Research Assistant:

Doris Stone

Weil (NIE G 74 0039)

Research Assistant:

Mary Jo Attorn
Joan Sumner
Anne E. Gertman

Zach (5T01 MH11102 08)

Faculty:

Adj. Prof. Karp
Adj. Prof. I. Belmont

PETITIONER'S EXHIBIT NO. 6

FERKAUF GRADUATE SCHOOL
YESHIVA UNIVERSITY

BY-LAWS FOR FACULTY GOVERNMENT

Preamble

Faculty government at the Ferkauf Graduate School of Yeshiva University is based upon the structure of the University as determined by the nature of its charter. Since the Board of Regents of the New York State Education Department has granted the charter to the University's Board of Trustees and the President, full responsibility for decisions relating to the University and its constituent parts resides with the Board of Trustees and the President. Where specific powers and responsibilities have been delegated to the Dean of the Ferkauf Graduate School, he as the chief educational officer of the school, is administratively responsible for the programs of the school.

STATEMENT OF PRINCIPLES

Although ultimate legal authority to make decisions affecting the University rests with its Board of Trustees, it is generally recognized that faculty participation in the governance of an institution of higher learning is a necessary responsibility of the academic profession. This point of view is confirmed by the testimony of a large and ever-growing number of leaders in higher education and college administration who emphasize the positive relationship between excellence in an institution of higher education and the degree of faculty participation in the government of that institution. Apparently the dangers of conservatism and inertia in vested faculty interests which occasionally require administrative prodding, are more than offset by the advantages of the aroused faculty energies and improved faculty morale which result from situations of autonomy and responsibility. Strong faculties are attracted to colleges where they can exercise a

large degree of authority over the educational process and the conduct of their own affairs. Furthermore, strong faculties tend to stay at such institutions.

Participation in college government by the faculty cultivates a sense of responsibility and nourishes the combination of thought, feeling, and action without which the college enterprise cannot be fulfilled as it should. Since it is an axiom of organizational life that prerogatives not exercised tend to atrophy, the proposed By-Laws incorporate provisions for the maximum participation by the faculty and their elected representatives in all appropriate phases of the Ferkauf Graduate School's operation including admissions, curriculum, standards, and faculty welfare.

While there is recognition in the value and effectiveness of clear codification of organizational procedures, no amount of structural ingenuity can take the place of the human factor in the successful operation of a university. These By-Laws should therefore be viewed as an instrumentality for the better utilization of faculty potential towards the fulfillment of Ferkauf Graduate School and Yeshiva University goals.

The Faculty of the Ferkauf Graduate School of Yeshiva University do hereby adopt these By-Laws for the purpose of establishing organization and procedures for the performance of their responsibilities.

ARTICLE I

Membership and Organization of the Faculty of the Ferkauf Graduate School

A. *The Faculty* shall consist of the Dean, Associate Dean, Assistant Dean, the Librarian of the Graduate Center and the members of the academic staff of the Ferkauf Graduate School and those ex-officio members elected by the faculty.

(a) Full Members—all faculty regularly appointed to hold professorial rank (assistant, associate and full) at the Ferkauf Graduate School and the Librarian of the Graduate Center.

(b) Associate Members—faculty members appearing in the Ferkauf Graduate School faculty roster who are actively participating during a given academic year in the School's academic activities and have been recommended by their department chairman and approved by the Dean, and who are either under:

(1) joint faculty apointment by the Ferkauf Graduate School and another school of the University, or

(2) hold adjunct or visiting professorial rank (assistant, associate, full professor) at the School.

(3) Ex-Officio Members—University officers who are named by the faculty to function as ex-officio members of the Ferkauf Graduate School committees. They shall be invited to faculty meetings as participating guests but shall have no voting privileges.

B. The *presiding officer* of this organization shall be the Dean or such person as he may designate.

C. *The Secretary of the Faculty.* The Secretary is appointed by the Dean in February to serve for a period of one year. The Secretary may be reappointed.

Duties—1. Maintain an official list of members of the Faculty Government for each academic semester.

2. Send notices of meetings.

3. Distribute the agenda prior to each meeting.

4. Take and prepare and circulate minutes of meetings.

5. Keep a record of all business done in the meetings, with the exact wording

of every motion, whether it was lost or carried and the record of the vote.

6. Collect, collate and maintain copies of historical materials in archives located in the Office of the Registrar and in a locked file in the Office of Graduate Center Library.

D. The Faculty shall, either directly or through its subordinate bodies, have the power to legislate as necessary for the performance of its responsibility, to participate in the development of the educational program of the Ferkauf Graduate School and to be responsible for the conduct of the School's instruction and research programs.

ARTICLE II

Meetings of the Faculty

A. *Four stated meetings* of the Faculty shall be held in each academic year. There shall normally be one stated meeting in each of the following months: October, December, March and May. The regular meeting dates shall be recommended by the Steering Committee and shall be stated in the Administrative Calendar. The agenda for each regular meeting should be distributed prior to the meeting.

B. *Special Meetings* The Dean shall call special meetings of the Faculty on his own authority or when petitioned in writing to do so by a quorum of the regular voting members or by the Steering Committee.

C. A quorum shall consist of three-fifths of the full members of the faculty. Faculty on sabbatical leave and those individuals listed as full members but whose primary responsibilities are related to other units of Yeshiva University shall be exempt from the quorum.

D. The rules contained in *Roberts' Rules of Order* shall govern all conduct of business except as otherwise provided in these By-Laws.

E. The minutes of each meeting shall be duplicated and circulated prior to the next regular meeting but are treated as unpublished unless otherwise specifically directed by vote of the Faculty Government. The Faculty Government may at times vote to include special items in greater detail.

F. Debates and discussions are to remain confidential Official announcements of actions taken by the Faculty Government may be made only by the Office of the Dean or such other office or person as may be authorized by the Dean.

G. Historical materials—copies of faculty committee reports, annual departmental reports, and faculty government minutes will be established in archives located in the Office of the Registrar and in a locked file in the Office of the Graduate Center Library for reference and examination by authorized members of the faculty and administrative personnel of the Ferkauf Graduate School.

H. Faculty action shall be initiated by the Committees of the Ferkauf Graduate School in accordance with the following procedures:

1. All proposed faculty recommendations shall, upon approval by a committee, be presented to the Steering Committee.

2. The Steering Committee shall confer with the Dean on all recommendations to be submitted in order to inform him and to secure his preliminary reaction.

3. The Steering Committee shall notify the committee of any reactions of its own to the proposed recommendation and/or of any reactions of the Dean.

4. The Steering Committee may then refer the proposal as submitted or amended by the originat-

ing committee to the next Faculty Government meeting for its action, but may attach whatever comments or recommendations it wishes.

ARTICLE III

Committees of the Faculty

A. *Steering Committee*

1. Organization

The Steering Committee shall consist of five members. Three members shall be elected by the faculty and two members appointed by the Dean. In order to establish rotation in office the *elected* faculty members for the first year shall be appointed as follows: one for a three year term, one for a two year term, and one for a one year term; thereafter, each election to the Committee shall be for a three year term. The two *appointed* members shall be appointed to serve: one for a two year term, and one for a one year term; and thereafter, each appointment shall be made for a two year term.

2. Responsibilities

At all times when the faculty is not officially convened, the Steering Committee shall act for the faculty as a representational board in all matters pertaining to academic function. The Committee shall have the following additional responsibilities:

a. Serve as liaison between the Dean and the faculty

b. Assist in formulating and implementing school policies

c. Arrange for stated and special meetings of the faculty

d. Propose the agenda for faculty meetings to the Dean

e. Act as the Nominating Committee

(1) The Steering Committee shall propose a single slate of nominations for all committee assignments.

(2) Provision shall be made for further nominations from the floor.

(3) The Steering Committee shall obtain the acceptance or declination of nomination of any members nominated from the floor.

f. Supervise the election of members of all committees

(1) A ballot shall be distributed by mail to all of the individuals indicated above as having voting rights, unless there are no contested elections and the faculty votes to approve the slate unanimously.

(2) Mailed ballots shall be returned to the Steering Committee. The envelope in which any ballot is returned shall carry the voting member's signature, inscribed on the short end of the envelope in order to check that the quorum of three-fifths of the Full Faculty is satisfied. This end of the envelope will be removed before the ballot is opened.

(3) Where more than one vacancy exists on a committee it is to be filled by a vote for the number of candidates equal to the number of vacancies.

(4) The Steering Committee shall announce the results to all members of the Faculty.

(5) The Steering Committee shall assign a convener for the first meeting of every elected committee.

g. Act as the By-Laws Committee

h. Survey the list of full, associate and ex-officio members of the Faculty Government each academic semester and present recommendations to the faculty at the first stated meeting of each semester for their approval.

B. *Standing Committees*

1. Organization

All new elections to committee assignment shall be held at the December meeting of the faculty each academic year for service to take effect the following February 1 until January 31 of the year a given term expires. Interim elections to fill vacancies may be held at any regular meeting. In order to establish rotation in office of approximately one-third of each committee's membership, each committee shall at the outset divide itself into three groups, to serve for one, two, or three years respectively, and shall designate the members of each group. The successors of these original members shall be chosen for a three year term, except for members chosen to fill vacancies, who shall serve for the remainder of the unexpired term. A maximum of three committee assignments shall be established for any individual member of the faculty.

2. Committee on Standards: Responsibilities

The Committee on Standards has two basic functions:

a) To establish standards of scholastic excellence throughout the Ferkauf Graduate School on matters bearing on admissions, course and program preference, and examinations. Specifically, the committee shall review and make recommendations to the faculty concerning minimal school wide standards in the following areas. These minimal standards will not in any way infringe upon a department's right to establish higher standards.

a.1—Admission requirements.

Grade point averages; examinations to be required for admission (GRE, MAT, etc.), passing scores on these examinations; interviews and recommendations.

.2 Transfer of credit (maximum number and quality).

.3 Registration in classes by students and faculty in other divisions of the University.

.4 Special-status admissions (Provisional, Transient, etc.) and equivalents.

.5 Deadlines for acceptance or rejection of applications.

a. 2-Course and program performance.

.1 Grading systems to be used in courses; passable grade-point averages; Incomplete grades.

.2 Course examinations.

.3 Academic averages.

.4 Academic loads.

.5 Requirements of resident for the doctorate, total time spent in studies, and normal progression toward the doctorate.

.6 Conditions of probation.

.7 Leaves of absence.

.8 Enrollment and attendance in courses; withdrawal from courses.

.9 Directed study courses.

.10 Deadlines.

a. 3-Examinations: policies, procedures and performance on

.1 Certifying and comprehensive examinations;

.2 language examinations, both as to kind and number of languages required; and

.3 oral defense of the dissertation

b. To serve as a final impartial judicial review board when an appeal is raised by students, faculty or administration. The Committee shall adjudicate questions concerning these rules pertaining to

1) The maintenance of academic standards, and

2) The scholarly or professional conduct of students.

3. Committee on Standards: Implementation

a. The Committee shall receive proposals for changes in matters within their jurisdiction from the departments, individual faculty members and members of the administrative personnel.

b. The Committee shall recommend changes after thorough consideration of the purposes and implications of the changes and their effects on the overall goals and direction of FGS.

c. The Committee shall report its deliberations to the Steering Committee and Faculty for their deliberation and action.

4. Committee on Curriculum: Responsibilities

The Committee on Curriculum has two basic functions:

a. To stimulate and encourage the academic excellence and growth of the Ferkauf Graduate School through careful study of ongoing programs, assessment of present and future needs, and recommendations for changes in the curriculum such considered study may suggest.

b. The committee shall recommend changes in the context of the direction and growth of the Ferkauf Graduate School.

5. Committee on Curriculum: Implementation

a. The committee shall receive proposals and changes in the curriculum from departments and/or individual faculty.

b. The committee shall recommend changes only after thorough consideration of the purposes, availability of appropriate staff, effects on existing programs in relation to the overall goals and directions of FGS. The committee shall evaluate content of courses only in the light of the above considerations.

c. The committee shall report its recommendations to the Steering Committee and faculty for their deliberation and action.

Procedures

I. *Review of Existing Programs*

Presently, and periodically (every 3 years), the Committee on Curriculum will review existing programs with departments for the purpose of strengthening programs, revising programs or effecting liaison between the several departments involved in the administration of a given program. Appropriate suggestions and recommendations will be discussed with department chairmen, and then forwarded to the Steering Committee, the Deans and finally to the faculty.

II. *Review of all Proposed Programs*

One of the committee's major functions is to insure that all programs offered at the Ferkauf Graduate School maintain a consistent level of excellence. In

order to carry out this duty, the committee suggests the following steps be taken:

1. The individual faculty members and/or the department chairman concerned should send the following material and information to the Committee on Curriculum:

   a) statement of the rationale for the new program to include purpose of the program and relation to overall goals of the Ferkauf Graduate School.

   b) statement on the availability of full-time faculty for instructional implementation of the program.

   c) statement on facilities to implement the program.

   d) a brief account of the program itself.

2. Customarily the above should be submitted to the Committee on Curriculum for review by September of the academic year prior to the year it is expected to go into operation. This will enable the committee to present its recommendations to the Steering Committee, the Dean, the department chairman and to the faculty prior to the December meeting of the faculty each year.

III. *New Courses*

It is incumbent upon department chairman to present to the Committee on Curriculum proposals for new courses to be offered. Customarily, for a course to be offered in the Fall Semester, the proposal must be submitted by March 1 of the previous semester; for a course to be given in the Spring Semester, by October 15 of the previous semester.

The review of proposed courses will be subject to the criteria mentioned above.

Special courses and workshops offered in the summer sessions will not come under the purview of this committee.

6. Committee on Faculty Welfare: Responsibilities

   a. The Committee on Faculty Welfare has as its prime function the formulation of recommendations related to matters of general faculty welfare. Specifically, these areas include

      .1 medical and hospitalization insurance

      .2 life insurance

      .3 sick leave policies

      .4 leaves of absence

      .5 sabbatical leaves

      .6 salary schedules

      .7 tenure policies

      .8 they may also include such other interests as in the future may be deemed advisable

   b. Committee action may originate within the committee, or on request of a member or members of the faculty.

   c. The committee shall determine its order of action by a majority vote of its members.

   d. The committee shall determine, in consultation with the Dean, the most efficient procedures for implementing its responsibilities.

7. Committee on Research Activities: Responsibilities

   a. Members of the faculty who participate in scholarly activities outside of the immediate geographical area may apply to the committee for travel funds. The committee evalu-

ates and processes the requests and transmits them to the Dean for action.

b. A research seeding fund has been made available which can be drawn upon by faculty members not having grant backing, and who want to conduct research on a small scale. It covers those who may want to conduct pilot research in anticipation of applying for more extended external assistance. The committee will evaluate and process these requests and submit them to the Dean's office.

8. Committee on Promotions: Responsibilities

The promotions committee shall evaluates each recommendation and then submit to the Dean of the Ferkauf Graduate School *not only* its final recommendations *but also* copies of the supporting evidence (including the departmental weights assigned to the several criteria) which the committee utilized in arriving at its recommendations. The committee may consult with the department chairman or individual faculty member under consideration to assist the committee in its deliberation.

The Committee shall establish whatever rules or procedures it deems necessary in order to carry out its responsibilities.

The faculty shall delegate to the committee full responsibility for carrying out its functions. Committee deliberations shall be confidential and no report of individual cases will be made to the faculty at large. The committee, however, will submit a general report to the faculty during a Spring meeting in which they may indicate the kinds and types of action taken and the effectiveness of the criteria used in recommending promotions as well as promotions machinery.

9. Committee on Promotions: Implementation

a. The criteria to be used in evaluating faculty members for promotion shall consist of:

.1 mastery of subject matter

.2 scholarly ability

.3 university service

.4 professional growth

.5 teaching effectiveness

Each department shall determine for itself what weights shall be assigned to these criteria as well as specific items of performance to be subsumed under each criterion.

b. Four members, nominated by the steering committee, consisting of no more than two members from any one department, shall be elected, one of whom shall serve as an alternate. No member of the committee shall deliberate upon a recommendation that concerns him personally or one in which he has passed judgment as a department chairman. In the event one member disqualifies himself for one of these reasons, the alternate shall take his place. The committee will serve for one year only although one or more members may be re-elected. The chairman and alternate will be selected by the committee.

c. The department chairman shall recommend in writing to a promotions committee (defined below) those faculty members who are to be considered for promotion in rank. Supporting evidence shall accompany these recommendations.

The Dean shall report his decisions on the promotions committee's recommendations within one month after receipt of the final list. If the Dean does not concur with these

recommendations, he shall state in writing to the committee his reasons. The committee shall then arrange to meet with the Dean in order to resolve the disagreements. Individual faculty members who have not been recommended for promotion shall have the right to appeal to the committee. All such personal appeals should be submitted in writing and accompanied by supporting evidence. The current policy and procedures apply only to the 1963-64 and 1964-65 academic years and that revised policy and procedures be considered for subsequent years in the light of the experience gained and, particularly in the light of the current lack of critical definition.

10. Library Committee functions to be submitted to the faculty for approval.

C. *Ad Hoc Committees*

Ad hoc committees of the faculty, established temporarily as the need arises to study specific questions, shall be appointed by the Dean upon the recommendation of the Steering Committee or the faculty or on his own authority.

mh
12/69

PETITIONER'S EXHIBIT No. 12A

FERKAUF GRADUATE SCHOOL OF HUMANITIES AND SOCIAL SCIENCE

YESHIVA UNIVERSITY

CRITERIA AND PROCEDURES FOR PROMOTION

(As codified by the Faculty Committee on Promotions, April 2, 1973)

Criteria and procedures for promotion in faculty rank used by departments, the promotions committee, and the Dean, are here summarized for the guidance of the several departments and individual members of the faculty.

Criteria

The "Criteria for Promotions" defined in the By-Laws for Faculty Government (as amended March 14, 1966) are as follows:

1. *Scholarly ability*: publications and ongoing research; professional papers, number and quality.
2. *Growth in mastery of subject matter*: keeping abreast of developments in major fields.
3. *University service*: reliable and productive service on committees at University, School or Department level (including student advisement and supervision).
4. *Teaching effectiveness*: classroom and seminar communication and participation.

The original By-Laws state: "Each department shall determine for itself what weights shall be assigned to these criteria as well as specific items of performance to be subsumed under each criterion." The Committee will consider, but not be bound by, such assignments of weights.

The Dean uses a more detailed statement of criteria, a copy of which is here appended. (See *GUIDELINES FOR PROMOTION*, J. B. Gittler, February, 1970).

The procedures listed below relate specifically to the criteria set forth in the By-Laws. It is suggested, however, that departmental recommendations for promotion include appropriate responses to supplementary items on the Dean's list of criteria. Both will be considered by the Committee in its assessment of recommendations.

Procedures by Departments

The By-Laws state: "Action with respect to a recommendation for promotion shall originate with the department with which the particular faculty member is associated."

As proposed by the Promotions Committee, each departmental recommendation for promotion should be accompanied by the following:

1. Written statement of the relative weights assigned to the several criteria for promotion, together with the rationale therefore;
2. Written assessment of the candidate's qualifications in relation to each of the stated criteria;
3. Documents supporting the assessment;
4. Report of the departmental vote—date; number present; number voting "Yes", "No", "Abstain"; and
5. Written minority report or reports from members of the department who disagree with the majority vote and wish to present their views directly to the Committee on Promotions.

Procedures by the Promotions Committee

The By-Laws state: "The Promotions Committee shall evaluate each recommendation and then submit to the Dean of the Ferkauf Graduate School *not only* its final recommendations *but also* copies of the supporting evi-

dence (including the departmental weights assigned to the several criteria) which the Committee utilized in arriving at its recommendations."

These procedures will be followed by the Committee in its consideration of recommendations for promotion.

1. All deliberations within the Committee shall be kept confidential.
2. Upon receipt of a departmental recommendation for promotion:
   a. The Chairman of the Committee will distribute copies of the recommendation to all members two weeks before it is to be evaluated at a meeting of the Committee. All relevant materials will be sent or otherwise made available to Committee members at the same time.
   b. The recommendation and related materials will be studied and appraised by individual members, in relation to promotional criteria, prior to the meeting when the Committee as a whole discusses its evaluation.
3. The several departments will be informed of all recommendations for promotion on the Committee's agenda, and departments and individual faculty members will be invited to present to the Committee any information deemed important as a basis for its decision in a given case.
4. Discussion of a recommendation for promotion within the Committee shall be organized around the several criteria. The candidate's qualifications on each criterion will be discussed separately, each member of the Committee being called upon to express his judgment.
5. The Committee will decide in the case of each recommendation whether it should seek assessments of the candidate's qualifications from peers outside the University, and if so, whether they should be obtained from documents already in the Dean's office or directly through the mail.
6. All members of the Committee shall be eligible to vote on each recommendation, regardless of the department from which it emantes.

7. Voting within the Committee on candidates for promotion shall be by open ballot, each member declaring his vote of "Yes", "No", or "Abstain".

8. Recommendations by the Committee for or against promotion will be sent to the Dean in writing with a summary of the reasons therefore with supporting documents, and with expressed minority judgments if any. To this end: (a) The Chairman and the Secretary will draft an appropriate letter to be sent to the Dean. (b) Upon approval by the Committee, this letter and supporting documents will be sent to the Dean. (c) A copy of the Committee's letter of recommendation will be sent simultaneously to the candidate for promotion.

Procedures by the Dean

The Dean will respond in writing to letters of recommendation submitted by the Faculty Committee on Promotions, stating his position on each recommendation, and sending a copy of his response to the candidate.

PETITIONER'S EXHIBIT No. 12B

GUIDELINES FOR PROMOTION

J. B. GITTLER
February, 1970

I. *To An Associate Professor*

A. *Teaching Effectiveness and Scholarly Direction of Students.*

1. Acknowledge teaching success.
   a. Candidate's command of his subject.
   b. His ability to organize his material and to present it with force and logic.
   c. His capacity to awaken in students an awareness of the relationship of his subject to other fields of knowledge.
   d. His ability to stimulate graduate students to creative work.
   e. His personal attributes as they affect his teaching and his students.
   f. Sources of evidence on which a. and e. are based.
   g. It should be the responsibility of the Departmental Chairman to submit meaningful statements, accompanied by evidence, concerning the candidate's teaching effectiveness. If such information is not included in the letter of recommendation, it should be the Committee's responsibility to request it.
2. Demonstrated capacity to direct research work. Established record in the direction of doctoral dissertations.

B. *Research and Publications.*

1. Established record in productive scholarship.
2. Evidence of a productive and creative mind.
3. Publications should be evaluated, not merely enumerated.

C. *Service to the School and University.*

1. Contributions to student welfare.
2. Service on faculty committees.
3. Other contributions to School and University.

D. *Scholarly Activities Other Than Teaching, Research, and Publications.* (Service to the community, state, nation in the special capacity as scholar).

E. *Expected to Attain Full Professorship.*

II. *Promotion to Professor Level*

A. *Teaching Effectiveness and Scholarly Direction of Students.*

1. *Successful* direction of the research of doctoral candidates.
2. Acknowledged record of teaching success (For criteria of teaching success see I. A-1).

B. *Research and Publications*

1. Durable scholarly contributions.
2. Original scholarly contributions.
3. Outstanding (national) recognition for scholarly work. Should be expected to stand in competition with the foremost scholars in similar fields throughout the academic world.

C. *Service to School and University*

1. Contributions to student welfare.
2. Service on faculty committees.
3. Other contributions to School and University.

D. *Scholarly Activities Other Than Teaching, Research, and Publication.* (Service to the community, state, nation in the special capacity as scholar).

ms

PETITIONER'S EXHIBIT No. 16

FERKAUF GRADUATE SCHOOL
OF HUMANITIES AND SOCIAL SCIENCES
YESHIVA UNIVERSITY

To: Prof. Martin Miller

From: Dean J. B. Gittler

Date: August 13, 1973

Subject:

I've been very much involved in negotiating a budget for 1973-74. In all my conferences with the University Budget Committee a basic objective of mine was to provide faculty salary increases.

I would like to meet the Welfare Committee (and/or you, Stillman, Norm Gordon), Rabinowitz, Socol, as soon after August 26 as possible and let you know where we are on salary increments.

Would you give Mrs. Gordon a number of dates?

Thank you.

ag

PETITIONER'S EXHIBIT NO. 17

YESHIVA UNIVERSITY
GRADUATE FACULTY ASSOCIATION

FACULTY ASSOCIATION OF BELFER GRADUATE SCHOOL OF SCIENCE

Prof. Ralph E. Behrends,
President.

FACULTY ASSOCIATION OF FERKAUF GRADUATE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES

Prof. Martin B. Miller,
President.

September 26, 1973

Samuel Belkin, President
Yeshiva University
500 West 185th Street
New York, New York

Re: Yeshiva University Graduate
Faculty Association

Dear President Belkin:

The faculties of Belfer Graduate School of Science and Ferkauf Graduate School of Humanities and Social Sciences have recently formed Faculty Associations, representing the great majority of each of their respective faculties. Both of the Associations have also approved and authorized the formation of the Yeshiva University Graduate Faculty Association to act on their joint behalf for the purposes of collective bargaining and all other labor relations matters.

We have been authorized by our Association to submit the following requests with respect to the graduate faculties employed at the Belfer and Ferkauf Schools. We recognize that Phase IV regulations of the Cost of Living Council shall ultimately apply to any settlement of our requests, but also that such regulations in their application and interpretation are administered upon the settlement of such requests, as we respectfully put before you:

1. Twelve percent (12%) across-the-board salary increases on the basis of effective salary rates as of September 1, 1973.

2. Four percent (4%) merit and inequity adjustments, based upon the aggregate faculty salary budget including the aforesaid salary increases. Such merit and inequity adjustments to be distributed to each graduate school on a pro-rata basis according to such respective aggregate faculty salary budgets. The merit and inequity allowances to be granted by a committee at each School comprised of the departmental chairmen and respective dean at each School.

3. Promotional increments of $750. for any faculty staff who were promoted to the ranks of Associate Professor and/or Professor since September 1970 and who did not receive any promotional increment as of date of effective promotion. Any such increment shall be included in the base upon which the across-the-board salary raises shall be based. In addition, such increases shall be included in the aforesaid salary budget relative to the merit and inequity adjustments.

4. The establishment of minimum salary ranges according to title in the following amount:

Assistant Professor	$12,500
Associate Professor	$15,500
Professor	$19,500

Such salary levels to be allowed to any individual whose salary does not reach the above amounts by reason of any of the aforesaid.

5. Provision of premium Blue Cross/Blue Shield policy coverage, including major medical, on a non-contributory basis for the graduate faculties, including adjunct faculty staff.

6. An increase of the contribution of the University to the Faculty Retirement System to 10% of the employee's base rate salary.

7. The establishment of a joint commission of equal faculty and administration representation to investigate, study and report upon by July 1, 1974 the retirement, insurance and other fringe benefit coverage of the Graduate Faculty of Yeshiva University with respect to the same provided other comparable personnel in the greater New York City area. Said committee to consider and make recommendations for equitable, prospective fringe benefit coverage.

8. The establishment of a formal grievance procedure for the resolution of complaints arising out of violations, misinterpretations, or inequitable applications of the provisions of the collective bargaining agreement, including the right to proceed to arbitration for the final resolution of any such grievances.

9. Maintenance of tenure policy in accordance with the *status quo* of the date hereof.

10. Sabbatical leave provided as a matter of right and as otherwise provided pursuant to the Faculty Handbook.

11. Improvements and revisions in the policies affecting grant management so as to administer faculty research and study grants efficiently and properly in accordance with the purpose for which they were awarded.

We believe that these matters are of great import not only to our faculty members, but also to the interests of the University in maintaining its highest standards in the employment and retention of distinguished faculty. We look forward to a positive and constructive dialogue on these matters.

We respectfully request that the items in this letter receive your prompt attention and an early date be set for their discussion.

Very truly yours,

Faculty Association of
Belfer Graduate School
of Science.

By _____
Prof. Ralph E. Behrands
President

Faculty Association of
Ferkauf Graduate School
of Humanities and Social
Sciences

By _____
Prof. Martin B. Miller
President

PETITIONER'S EXHIBIT No. 18

YESHIVA UNIVERSITY
FERKAUF GRADUATE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES
55 Fifth Avenue/New York, N.Y. 10003
OFFICE OF THE DEAN (212) 255-5600

October 24, 1973

Dr. Martin Miller
Chairman, Welfare Committee
Ferkauf Graduate School
55 Fifth Avenue
New York City 10003

Dear Marty:

Your letter of September 26 to President Belkin has been referred to me for reply.

I have been asked to inform you that University policy mandates that we pursue established channels of communication and procedure—i.e., the Dean continue to confer with faculty committees and individual faculty members of the School on all administrative and academic matters. I have been informed also that the University has therefore declined your suggestion of recognition as outlined in your letter of September 26.

I am therefore asking again that the members of the Welfare Committee meet with me and the University Budget Committee so that I can complete the necessary discussions on the current budget of FGS. I would like to arrange the meeting as soon as possible. Please reply.

I thank you and other members of the Welfare Committee for your continued cooperation.

Sincerely yours,

/s/ Joe
JOSEPH B. GITTLER
Dean

ag

PETITIONER'S EXHIBIT No. 105

MINUTES

BELFER LIBRARY COMMITTEE

Oct. 22, 1974

Present: Profs. Patt (Chairman), Beck, Lebowitz, Petersen, Schechter, Woodruff (Secretary); Mrs. Tishelman, Librarian

After a discussion of the news that the administration plans to move the Belfer Library to the Pollack Library Building, the following resolution was passed by the Library Committee:

For reasons outlined, in part, in the minutes of the Belfer Library Committee for June 13 and 29, 1973 (enclosed), we feel that a move of the Belfer Library to the Pollack Building would be a disaster for the Belfer School. We are also surprised and shocked that the reported plans have been made without consultation with the Belfer faculty. We feel it imperative that we meet with the administration to discuss this matter, and hereby request such a meeting as soon as possible.

It was agreed that copies of these minutes be sent to President Belkin, Vice President Fishman, Vice President Socol, Dean Komar, Dr. Tishby, and Mr. Deitch.

2 enclosures

PETITIONER'S EXHIBIT No. 106

YESHIVA UNIVERSITY

To: Faculty Committee

From: Department of Mathematics and Science Education

Date: October 22, 1974

Subject:

We wish strongly to express our disapproval at the failure on the part of the Deans and Vice-Presidents to consult with the Department of Mathematics and Science Education either as a whole or through its chairman, in arriving at decisions concerning the future of the Department and its programs, and their failure to inform the Department of the existence and nature of such decisions. We feel that decisions made in this fashion will have serious academic repercussions as well as severe effects on faculty morale.

/s/ A. E. Woodruff
/s/ [Illegible]
/s/ [Illegible]

PETITIONER'S EXHIBIT No. 107

THE PRESIDENT'S SALARY SCHEDULES COMMITTEE
YESHIVA COLLEGE WELFARE COMMITTEE
STERN COLLEGE WELFARE COMMITTEE

February 29, 1968

Dear Colleague at Yeshiva College,

Dear Colleague at Stern College,

Since the time when we submitted our oral reports to you at open meetings of the Welfare Committees of our respective colleges, we have met, as a full committee, with Vice President-Finance Levine and discussed with him the accompanying document, signed by all the members of the President's Salary Schedules Committee, including our two Deans. Where matters stand now are perhaps best summed up in the following *aide memoire*, which was drawn up directly after our meeting with the Vice President.

Inasmuch as Mr. Levine intends to take up this vital matter with President Belkin within the next few days, we hope to have the results of our deliberations made public shortly.

Very sincerely yours,

BEATRICE FRIEDLAND
Stern College

IRVING LINN
Yeshiva College

AIDE MEMOIRE

Meeting of the President's Salaries Schedule Committee with Mr. Jacob Levine, Vice President-Finance, on February 28, 1968.

The session was opened at 10 A.M., by the Chairman, Professor Linn. There were present, in addition to Vice President Levine, Deans Bacon and Frimer and Professors Friedland, Greenstein, H. Levine, Simon and Tauber.

Mr. Levine acknowledged receipt on February 14 of the Committee's Final Report. Specific features and highlights were called to Mr. Levine's attention:

1. The Report represented the diligent thought and effort of both the Deans and the faculty members.
2. The Report was unanimously adopted and was acknowledged to comprise fair and honest proposals rather than a position-paper to serve as a basis for bargaining. It was specifically pointed out that this kind of harmonious dealing could serve a beneficial purpose within the University.
3. The Report had been made public at both Colleges, so their respective faculties had been apprised of the contents.

Mr. Levine indicated that his preliminary rule of thumb estimates had demonstrated that the Report was indeed a reasonable one. He said he was planning to present the Committee's proposals along with his own recommendations to the President this week. Mr. Levine was asked by the Committee to indicate what his own recommendations that would accompany the Committee's Report might be, but he responded that he was unable to do so at this time.

The Committee also indicated its readiness to meet with President Belkin at any time to discuss the Report.

Respectfully submitted,

JULES GREENSTEIN
Secretary

PETITIONER'S EXHIBIT No. 108

YESHIVA UNIVERSITY
Amsterdam Avenue & 186th Street
New York 33, N.Y.

OFFICE OF THE PRESIDENT December 3, 1970

Dear Colleague:

As you know, Yeshiva University, along with all other universities, is suffering a severe financial crisis. I am confident that we will surmount these difficulties and that we will continue on our course towards excellence in all aspects of our educational program. We must maintain the highest possible standards and we must do the least possible damage as we live through this difficult phase in the history of American education.

During these coming months, we will need to persist in the process of belt-tightening which, with your help and understanding, has already been initiated with some measure of success. Our present budget projections indicate that I will be unable to authorize any promotions or salary increments for the 1971-72 academic year. Should our situation improve in some unanticipated fashion, I shall promptly review this determination. However, our analysis compels me in all candor and in all fairness to acqauint you with our current reality.

I am confident that I can rely on your continued cooperation as we move through these hard times. I recognize that increased living costs post real problems for faculty members and I deeply regret that it is not possible at this time to plan for commensurate salary increases this coming year. However, I know that we will keep working together for the students and for the community we serve.

Thank you for your devotion, your loyalty and your commitment to the aims and ideals of Yeshiva University.

Sincerely yours,

/s/ Samuel Belkin
SAMUEL BELKIN
President

PETITIONER'S EXHIBIT NO. 109

Dec. 8, 1970

Dear President Belkin,

As Chairman of the Faculty Welfare Committee at Stern College, I have been authorized and directed by its members, and in their name, to respond to your recent letter freezing salaries and promotions.

The faculty has expressed extreme anger not only at the purpose of your letter but at the method employed to achieve that purpose. The faculty remembers vividly your statement of last year that "a contract is a contract" and that therefore they could not expect any changes in it, even for a just cause (cost of living increase). Many of us concurred with your understanding of "the contract" at that time. Now, you have unilaterally, without consultation, frozen promotions and salaries. We wish to remind you that "a contract is a contract" and is equally binding on the University.

Your letter has done much harm, in many areas, and something positive and constructive must be done immediately to remedy the situation. We recognize the financial plight of the University. However, the University must not solve its financial problems by impairing the obligation of contract that is binding on both parties. Therefore, we suggest an immediate meeting to reinstate the contract and to establish machinery to give the faculty a permanent role in determining financial priorities for the University.

We respectfully request a reply to this letter not later than December 22, 1970.

Very respectfully yours,

Professor Beatrice Friedland
Chairman, Faculty Welfare Committee
Stern College

PETITIONER'S EXHIBIT NO. 111

Yeshiva University
Yeshiva College

Open Meeting: Yeshiva College Faculty Welfare Committee

Date: October 30, 1974 (10:30 a.m.-12:30 p.m.)

Present: An attendance sheet was not circulated. Approximately 17 faculty members attended the full meeting.

Business: Consideration of the Welfare Committee Proposal of October 15, 1974, for Full-time Faculty Salaries

I. The meeting opened with Dr. Lainoff, Chariman of the Welfare Committee, and Dr. Fleisher thanking Dean Bacon for his efforts on behalf of the Faculty in working toward a resolution of the salary situation. A motion expressing gratitude to the Dean was unanimously approved by the Faculty. The Dean responded with appreciation for the motion, advised that the final proposal must still be approved by the President, and left the meeting to resume other work.

II. Dr. Lainoff distributed and explained the Welfare Committee Proposal of October 15, indicating that the Proposal had the support of the Welfare Committee and the approval of Stern College.

III. Extensive discussion of the salary proposal followed, with particular concern regarding how salaries would increase in the event of promotion of a faculty member from one rank to the next. There was brief discussion of hourly salaries, tenure policy, sabbaticals, and medical insurance. Dr. Lainoff reported that Dr. Socol had informed him that a fact-finding group would report on pensions to the faculty in November.

IV. The meeting concluded with the passage of the following resolution:

1) "The Faculty extends its deep thanks to its Faculty Welfare Committee for its dedicated effort on behalf of all members of the Faculty." *Passed unanimously.*

2) "The Faculty extends special thanks to Dr. David Fleisher who, though not a member of the Welfare Committee, devoted his time and talent to help the Committee in its work." *Passed unanimously.*

3) "The Faculty accepts the salary figures presented to it in the Welfare Committee Proposal of October 15, 1974. *Passed unanimously.*

— "The Faculty expresses its strong feelings that this salary agreement is far from meeting the fullest, real needs of the Faculty." *Passed.*

— "The Faculty resolves that the actual salary for 1974-75 and 1975-76 for each member of the Faculty must be presented in writing by the Administration to each faculty member." *Passed unanimously.*

— "The Faculty resolves that in all disputable matters, particularly those involving promotion, the Welfare Committee must be consulted." *Passed unanimously.*

— "The Faculty resolves that it has the moral right to renegotiate this salary agreement for 1975-76." *Passed*: 7 Yes, 5 No, 4 Abstentions.

Respectfully submitted,

PAUL CONNOLLY
Secretary, *pro tempore*

PETITIONER'S EXHIBIT No. 112

The Yeshiva College Welfare Committee
Yeshiva College
New York, N.Y.

5 March 1975

Dr. Samuel Belkin
President, Yeshiva University
New York, N.Y.

Dear Dr. Belkin:

The Faculty of Yeshiva College voted unanimously at its Assembly of 12 February 1975 in favor of the following resolution (and expressed its desire that a letter incorporating it be addressed to you):

> The Faculty reaffirms the position taken at the Faculty Assemblies of 14 March and 24 October 1973, and communicated 9 November 1973 by the Secretary of the Faculty to President Belkin and to the Board of Trustees, namely (1) that mandatory retirement for tenured faculty be at age 68; and (2) that tenured faculty members have the option of retiring at age 55. The Faculty position is that the forced retirement of tenured faculty before the age of 68 is an arbitrary violation of tenure.

The Faculty has resubmitted and repassed this resolution because it feels aggrieved that the whole matter of retirement has not been dealt with fairly, especially since there is abundant evidence that until recently the individual faculty member had the right to choose between mandatory retirement at age 68 or his own voluntary retirement at age 65. Those clear regulations were recently arbitrarily altered by the administration without prior consultation with the faculty.

We raise this issue again at this time just because the University and a representation of the faculty are before the National Labor Relations Board. The Administration maintains that the faculty is also managerial,

sharing in the management of the University. If this is so, we shall appreciate an answer to this letter in the posture which the University assumes before the referee. Please agree to sit down with the members of the Yeshiva College Welfare Committee and discuss this grievance and try to resolve it in a friendly non-adversary relationship. In view of the fact that our previous letter has gone unanswered, may we respectfully request that this letter be replied to before April 7.

Sincerely yours,

MANFRED WEIDHORN
Chairman, YC Welfare Committee

cc: Vice President Fishman

The Yeshiva College Welfare Committee
Yeshiva College
New York, N.Y.

5 March 1975

Dr. Samuel Belkin
President, Yeshiva University
New York, N.Y.

Dear Dr. Belkin:

The Faculty of Yeshiva College, at its Assembly of 5 March 1975, instructed its Welfare Committee to communicate to you the following resolution:

> It is the strong and unanimous view of this Faculty that the enforced retirement of Dr. Maurice Chernowitz is a clear violation of his tenure contract and that in accord with his contract he is entitled to teach until he reaches the mandatory retirement age of 68.
>
> As a temporary measure until the fundamental issue is resolved, it is, moreover, the view of this Faculty that the President be urged to continue Dr. Chernowitz's tenure for another year and that the Welfare Committee urge a meeting with President Belkin on this matter.

Sincerely yours,

MANFRED WEIDHORN
Chairman, YC Welfare Committee

cc: Vice President Fishman
University Review Committee
Dean Isaac Bacon

PETITIONER'S EXHIBIT NO. 113

FACULTY WELFARE COMMITTEE

Meeting of June 27, 1968, 1 P.M., F535

The meeting was called by Prof. Simon (secretary) at the request of Profs. Chernowitz, Siev and Tauber. Present were Profs. Chernowitz (new member, Sept. 1968, non-voting), Siev, Simon and Tauber.

AGENDA: 1. Election of acting chairman in the absence of Prof. Linn (Chairman until September 1968).

2. Planning activities of the Committee for Summer 1968.

3. Setting agenda for first meeting in Fall 1968.

MOTION by Prof Tauber: That Prof. Simon be elected chairman of the present meeting.
The motion was passed unanimously.

Motion: That Prof. Linn, being unable to attend during Summer 1968, and having indicated to Profs. Chernowitz, Siev and Tauber that he would turn over to Prof. Simon all matters still pending before the Committee, Prof. Simon be elected acting chairman, and that Prof. Simon also complete his term as Secretary of the Committee.
The motion was passed unanimously.

The following motions were also passed unanimously:

1. That the Acting Chairman convey to Dean Bacon the Committee's thanks for his having initiated procedures toward rectification of "gross inequities" in the salaries of Profs. Chernowitz and Siev; and that the Acting Chairman be charged with pursuing this matter in cooperation with Dean Bacon during the Summer of 1968, so that the said inequities can be corrected by the first pay period in the Fall of 1968.

2. That the next meeting of the Committee be called at the earliest possible date in September 1968, and that the Acting Chairman then report to the Committee on the results of Dean Bacon's actions on behalf of Profs. Chernowitz and Siev.

Further agenda for the next meeting of the Committee:

Election of permanent chairman and secretary.

The meeting was adjourned at 1:45 P.M.

Respectfully submitted,

/s/ Ernest Simon
ERNEST SIMON
Secretary

PETITIONER'S EXHIBIT NO. 116

YESHIVA UNIVERSITY
500 West 185th Street
New York, N.Y. 10033

VICE PRESIDENT
FOR ACADEMIC AFFAIRS

September 5, 1974

Prof. R. E. Behrends
23 West 74 Street
New York, N.Y. 10023

Dear Prof. Behrends,

As called for in the Yeshiva University Tenure Policy, your request for permission to engage in outside teaching and/or consultation activities during the 1974-75 academic year has been brought to my attention by Dean Komar. In view of the nature of the activities specified and the limited amount of time that you intend to devote to them I am able to inform you that your request is approved.

Please do keep Dean Komar informed should there be any change in your plans for 1974-75. In addition, should you wish to undertake outside activities in the future please submit a new request at least three months in advance of the contemplated starting date.

With every good wish for your personal happiness and professional success, I remain

Sincerely,

/s/ Joshua A. Fishman
JOSHUA A. FISHMAN, Ph.D.
Vice President for
Academic Affairs

JAF/jg

PETITIONER'S EXHIBIT NO. 117

MINUTES OF FACULTY COMMITTEE

October 31, 1974

Meeting called to order by Dean Komar at 3:10 P.M.

Present: Drs. Komar, Patt, Borowitz, Pomerantz, Behrends, Rosenfeld, Grosof, Coburn, Goldstein, Cooper, Ehrenpreis, Lebowitz.

The change in the status of the Math & Science Education Department as announced in several memos from Vice President Fishman was discussed. It was the consensus of the meeting that it is not completely clear what the new status of the Department is, and that Dean Komar has not been informed properly of the decisions, and that the Constitution and By-Laws of BGSS, accepted by President Belkin, may have been violated in making a change in the Departmental Structure of BGSS (see By Law Article IV.). A memo from the MSE Department was presented to the Faculty Committee (copy appended to minutes). Dean Komar will inform Vice President Fishman of the Faculty's concern, and arrange a meeting to include the chairmen of the Departments involved.

The Library Committee expressed its concern about the decision reportedly reached by Vice President Fishman and approved by President Belkin to move the BGSS Library to Gottesman Building. The Library Committee has submitted a resolution, to Pres. Belkin, Vice-Pres. Fishman and Dr. Socal, Dean Komar, Dr. Tishby, Mr. Deitch, a copy of which is appended. The Library Committee reported also on a meeting it held earlier this day with Mr. Deitch, head of the Pollack Library, in which Mr. Deitch expressed the view that the proposed move will not save the University any money, and will further cramp the facilities in the Gottesman Building. The following resolution was passed, for presentation to the Faculty Council.

The Faculty Committee of the Belfer Graduate School of Science, has read the resolution passed by the Library Committee and the minutes of its meetings on October 22 and Oct. 31, 1974, and considers that the moving of the BGSS Library to the Gottesman Building is unacceptable to the BGSS Faculty.

It was also the consensus of the meeting that the unilateral manner in which the decision was made, without proper consultation with the Library Committee, is deserving of criticism.

A report of a meeting of the users of the BGSS Computer held 10/17/74 was read into the minutes (copy appended). The main point was that the $7,000 per year needed for the service contracts will no longer be available from grant funds. It was the consensus of the meeting that as the computer serves other schools besides BGSS, and is part of the educational function of these schools as well as BGSS, funds from University Sources outside the regular BGSS budget be sought to cover the service contract.

A memo from the Chemistry Department, deploring the failure of the University to act in time on the basis of repeated warnings by the Department in a way that would have saved the Ph.D. program, was read into the minutes (copy appended).

Members of the Committee expressed the view that in the situation discussed above, as well as in the failure to hold statutory meetings of the Committee and Council last May, and the failure to use the Academic Credentials Committee and the Faculty Committee to pass on the qualification of new appointees to the Faculty, there has been a consistent pattern of failure to consult with the Faculty on matters of concern to it. In view of the lateness of the hour it was agreed to table discussion to another meeting of the Committee to be held Tuesday, November 12th at 2:30 P.M.

Meeting adjourned 4:10 P.M.

M. GOLDSTEIN
Secretary

PETITIONER'S EXHIBIT No. 118

YESHIVA

[SEAL]

UNIVERSITY

BELFER GRADUATE SCHOOL OF SCIENCE
2495 Amsterdam Avenue / New York, N.Y. 10033 /
(212) 568-8400

OFFICE OF THE DEAN

October 23, 1973

Dr. Ralph Behrends
Belfer Graduate School of Science
2495 Amsterdam Avenue
New York, N.Y. 10033

Dear Dr. Behrends:

Dr. Belkin has asked me to reply to your letter of September 26, 1973.

As you know, faculty relations are primarily the responsibility of the Dean who confers with the various Faculty Committees of the school as well as with individual members of the faculty concerning administrative and academic matters. Where appropriate, the Dean involves the respective Councils and Committees of the University, many of which have faculty representation as well as other University officials and administrators. These and other well-established channels of communication allow for full discussion and interaction.

It is the University's intention to continue with existing procedures and practices in the best interest of all concerned and must therefore decline your suggestion of recognition as outlined in your letter of September 26, 1973.

I am again asking that members of the Welfare Committee meet with me as soon as possible to continue our discussions. It is necessary that we do this immediately since the University, consistent with applicable policies,

has already implemented salary revisions for some of its schools and we must conclude our budget discussions without further delay.

I would be most grateful to you and other members of the Welfare Committee for your continued cooperation.

Sincerely yours,

/s/ Arthur Komar
ARTHUR KOMAR
Dean

AK/md

cc: Members of the Faculty Welfare Committee
cc: Dr. D. Mattis

☆ U. S. GOVERNMENT PRINTING OFFICE: 1979 292338 381

Supreme Court, U. S.
FILED
JAN 18 1979
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Intervenor-Petitioner,

v.

YESHIVA UNIVERSITY.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

RESPONDENT'S BRIEF IN OPPOSITION

SAUL G. KRAMER
300 Park Avenue
New York, New York 10022
Counsel for Respondent
Yeshiva University

Of Counsel:

GERALD A. BODNER
1300 Morris Park Avenue
Bronx, New York 10461

PETER G. SAMUELS
MARK L. GOLDSTEIN
PROSKAUER ROSE GOETZ & MENDELSOHN
300 Park Avenue
New York, New York 10022

TABLE OF CONTENTS

	PAGE
Opinions Below	1
Jurisdiction	2
Question Presented	2
Statutes Involved	2
Statement of the Case	2
REASONS FOR DENYING THE WRIT:	
I. The Opinion of the Second Circuit Gave Full Consideration to the Issues Presented and Decided Them Correctly	12
II. This Court Should Not Grant Certiorari to Review Evidence or to Discuss Specific Facts	18
III. No Conflict Exists Between Decisions of Courts of Appeals	20
IV. Granting the Petition for Certiorari Would Be Harmful to the Effective Administration of Justice	21
CONCLUSION	24

TABLE OF AUTHORITIES

Cases

American Oil Co., 155 N.L.R.B. 46 (1965)	5
Arizona Public Service Co. v. *NLRB*, 453 F.2d 228 (9th Cir. 1971)	14, 16
Boston University v. *NLRB*, 575 F.2d 301 (1st Cir. 1978), *petition for cert. pending*, No. 78-67	20
Claremont Colleges, 198 N.L.R.B. 811 (1972)	5
Deaton Truck Line, Inc. v. *NLRB*, 337 F.2d 697 (5th Cir. 1964), *cert. denied*, 381 U.S. 903 (1965)	15
GAF Corp. v. *NLRB*, 524 F.2d 492 (5th Cir. 1975)	13

PAGE

General Dynamics Corp., 213 N.L.R.B. 851 (1974) .. 5

General Telephone Co. of Michigan, 112 N.L.R.B. 46 (1955) 18

Magnum Import Co. v. *Coty*, 262 U.S. 159 (1923) ... 23

NLRB v. *Bell Aerospace Co., Div. of Textron, Inc.*, 416 U.S. 267 (1974) 5, 12, 16, 17

NLRB v. *Detroit Edison Co.*, 537 F.2d 239 (6th Cir. 1976) 14

NLRB v. *Esquire, Inc.*, 222 F.2d 253 (7th Cir. 1955) 14

NLRB v. *Gray Line Tours, Inc.*, 461 F.2d 763 (9th Cir. 1972) 14, 16

NLRB v. *Metropolitan Life Insurance Co.*, 380 U.S. 438 (1965) 23

NLRB v. *Metropolitan Life Insurance Co.*, 405 F.2d 1169 (2d Cir. 1968) 14, 16

NLRB v. *Metropolitan Petroleum Co.*, 506 F.2d 616 (1st Cir. 1974) 14

NLRB v. *Pilot Freight Carriers, Inc.*, 558 F.2d 205 (4th Cir. 1977), *cert. denied*, 434 U.S. 1011 (1978) 14

NLRB v. *Scott Paper Co.*, 440 F.2d 625 (1st Cir. 1971) 15

NLRB v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975) 12

Ohio Power Co. v. *NLRB*, 176 F.2d 385 (6th Cir.), *cert. denied*, 338 U.S. 899 (1949) 16

Pittsburgh Plate Glass Co., 115 N.L.R.B. 976 (1956) 18

Puget Sound Power & Light Co., 117 N.L.R.B. 1825 (1957) 5

Retail Clerks International Association v. *NLRB*, 366 F.2d 642 (D.C. Cir. 1966) (Burger, J.), *cert. denied*, 386 U.S. 1017 (1967) 17

Transformer Engineers, 114 N.L.R.B. 1325 (1955) .. 18

Turner's Express, Inc. v. *NLRB*, 456 F.2d 289 (4th Cir. 1972) 14

United States v. *Johnston*, 268 U.S. 220 (1925) 19

PAGE

Universal Camera Corp. v. *NLRB*, 340 U.S. 474 (1951) 13, 18, 19

University of Chicago Library, 205 N.L.R.B. 220 (1973), *enforced*, 506 F.2d 1402 (7th Cir. 1974) 5

Westinghouse Electric Corp., 163 N.L.R.B. 723 (1967) 5

Statutes

National Labor Relations Act, 29 U.S.C. § 151 *et seq.*:

Section 2(3), 29 U.S.C. § 152(3) 15

Section 2(11), 29 U.S.C. § 152(11) 5, 10, 14, 15, 16

Section 2(12), 29 U.S.C. § 152(12) 5

Miscellaneous

Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication*, 21 U.C.L.A. L. Rev. 63 (1973) 13

IN THE

Supreme Court of the United States

October Term, 1978

No. 78-857

—o—

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Intervenor-Petitioner,

v.

YESHIVA UNIVERSITY.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

—o—

RESPONDENT'S BRIEF IN OPPOSITION

Opinions Below

The unanimous decision of the Court of Appeals appears at pages 1a-42a of the appendix to the petition and is reported at 582 F.2d 686. The decision and order of the National Labor Relations Board (the "Board") appear at pages 45a-62a of the appendix to the petition and are reported at 231 N.L.R.B. No. 98. Its decision and direc-

tion of election in the underlying representation proceeding appear at pages 63a-79a of the appendix to the petition and are reported at 221 N.L.R.B. 1053.

Jurisdiction

The judgment of the Court of Appeals was entered on July 31, 1978. On October 18, 1978, the time for filing a petition for a writ of certiorari was extended by order of this Court to November 28, 1978. On December 4, 1978, the time for filing a response to the petition was similarly extended to January 18, 1979. The petition states that jurisdiction is invoked under 28 U.S.C. § 1254(1).

Question Presented

Whether the Second Circuit correctly concluded that the full-time faculty of respondent Yeshiva University ("Yeshiva") are supervisors and/or managerial personnel under the National Labor Relations Act, as amended, (29 U.S.C. § 151 *et seq.*) and, therefore, were improperly included in the bargaining unit found appropriate by the Board.

Statutes Involved

The relevant statutory provisions are set forth at pages 80a-82a of the appendix to the petition.

Statement of the Case

On July 31, 1978, the Second Circuit denied enforcement of the Board's order of August 24, 1977, requiring respondent Yeshiva to recognize the Yeshiva University Faculty Association as the exclusive bargaining agent of a unit of Yeshiva's full-time faculty members.[1] After reviewing the structure of Yeshiva (a unique university under orthodox Jewish auspices that combines a broad gamut of secular learning and Jewish and Hebraic studies in several different schools) and the role played by the faculty in its operation and governance, the Second Circuit concluded that the supervisory and managerial authority of the faculty "is so pervasive and consistently exercised" that the full-time faculty could not properly be included as employees in the bargaining unit. *NLRB* v. *Yeshiva University*, 582 F.2d 686, 695 n. 10 (2d Cir. 1978). Finding that the record compels the exclusion of the full-time Yeshiva faculty from the bargaining unit, the Second Circuit explained that

> "the Board here has made no factual findings which would preclude supervisory or managerial status, nor has the Board advanced any persuasive rationale for refusing to so categorize Yeshiva's faculty." (*Id.* at 702.)

The Court of Appeals concluded that despite the extensive and largely uncontroverted record, accumulated over twenty-one days of hearings, including over 4600 pages of testimony and 200 exhibits, and setting forth the unique character of Yeshiva and the distinctive system of shared authority by which this University is governed, the Board rendered its decision "without any analysis" of the facts before it and merely "treated the issue summarily." *Id.* at 696.

---

[1] Yeshiva is a private, non-profit institution of higher education chartered under the laws of the State of New York. Yeshiva has offices and educational facilities located on four widely-separated campuses in New York City. At issue in this proceeding were 209 full-time and 150 part-time faculty members who teach 2,500 full- and part-time students. The Board proceeding excluded various other schools of the University and their faculties.

Hearings before the Board were conducted over a period of more than five months, between November 26, 1974 and May 6, 1975. *Id.* at 689. The great bulk of testimony and exhibits was directed specifically to whether the full-time faculty of Yeshiva are supervisors and/or managerial personnel. Nevertheless, despite the University's presentation of an enormous amount of uncontroverted evidence on this question, the Board saw fit to write only one conclusory paragraph on that key issue without referring to a single supporting fact. Speaking for a unanimous Court of Appeals panel, Judge Mulligan wrote:

> "[W]ithout any analysis the Board found that Yeshiva's full-time faculty were neither supervisors nor managerial personnel simply by stating that the substantial authority of the faculty was wielded in their capacity as professionals and by invoking three doctrines promulgated in earlier Board rulings. . . . [W]e are unpersuaded that these four justifications for the Board's decision on this point withstand careful scrutiny. . . ." (*Id.* at 696-97.)

In short, the Court of Appeals had carefully to review the record of this case because the Board abdicated its responsibility to provide an evidentiary rationale, and simply ignored in its summary decision the uncontroverted evidence demonstrating unequivocally the shared authority that the full-time faculty of Yeshiva exercise along with the administration in the operation and governance of the University. And upon undertaking such a review, the court found that the evidence

> "strongly supports the contention of Yeshiva that its full-time faculty, acting at times through committees or department chairmen, and at other times as a body, exercise supervisory and managerial functions as defined by section 2(11) of the Act and within the Board's prior holdings as discussed in *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc.*" (*Id.* at 696.)

The Board had found that because the faculty of Yeshiva are professional employees they must be included in an appropriate bargaining unit.[2] But the Court of Appeals recognized that such reasoning begged the real issue. Yeshiva never argued that its full-time faculty members were not professional within the statutory definition of that term; it did argue that they share in the management of the institution to the extent that they must be excluded from the unit as managers and supervisors under any traditional analysis. *Id.* at 697. The Court of Appeals concluded, "the fact that employees are professional does not preclude them from also being categorized as supervisory or managerial employees ineligible for inclusion in a bargaining unit." *Id.* at 697, citing in support the Board's own decisions in *General Dynamics Corp.*, 213 N.L.R.B. 851, 860, 862, 863 (1974); *University of Chicago Library*, 205 N.L.R.B. 220 (1973), *enforced*, 506 F.2d 1402 (7th Cir. 1974); *Claremont Colleges*, 198 N.L.R.B. 811 (1972); *Westinghouse Electric Corp.*, 163 N.L.R.B. 723, 726 (1967); *American Oil Co.*, 155 N.L.R.B. 46, 48, 49 (1965); *Puget Sound Power & Light Co.*, 117 N.L.R.B. 1825, 1827 (1957).

The real issue, noted the Court of Appeals, concerned the "extensive control" of Yeshiva's faculty over the hiring, rank, salary, and tenure status of other faculty members, as well as what courses are to be taught, who should teach them, and the number of teaching hours to be

[2] Under Section 2(12) of the Act, 29 U.S.C. § 152(12), a professional employee is included within the Act's coverage despite the fact that in the performance of his work he must exercise discretion and judgment.

required of the faculty. The court was further concerned by the crucial role of the full-time faculty in determining the curriculum, admissions and graduation requirements, tuition, and in one instance, even the situs of a school. *Id.* at 698.

In rendering its decision, the Court of Appeals did what the Board had failed to do; that is, it analyzed the management of the institution on a detailed school-by-school basis. Thus, the court found that at Stern College a Committee on Academic Standards, composed of the Dean of the College, Dean Mirsky, who retains his faculty rank, and six full-time faculty, "fixes" the academic requirements and "decides" whether a student whose performance is inadequate will be required to leave the school. Although the decision to dismiss a student results in a loss of tuition income, the Court of Appeals noted that Dean Mirsky had never overruled the Committee. In addition, faculty-dominated committees at Stern "establish" admission standards, "determine" graduation requirements, and "set up" grading systems. On one occasion, the Dean was required to re-institute a major when the faculty disagreed with his decision to delete it. *Id.* at 690-91.

The record also demonstrated the determinative role played by faculty in the hiring, promotion, and termination of other faculty, and in the granting of tenure. The court noted that Dean Mirsky had always accepted the decisions of the faculty Promotions Committee, and the University President had never overruled a negative recommendation of that faculty committee. Dean Mirsky had never made a faculty appointment which was not approved by a department chairman. Similarly effective recommendations were made by department chairmen regarding faculty termination and tenure. In fact, tenure had been granted even when the Dean disagreed with a chairman's positive tenure recommendation. *Id.* at 691.

At Yeshiva College, a College Senate composed of faculty, administrators, students and alumni members has jurisdiction over admissions policy, scholastic standards, the grading system, and other policy matters. The court's review of the record showed that all measures passed by the Senate are subject to veto by the Faculty Assembly. The Dean of Yeshiva College, Dean Bacon, who is also a professor, testified before the Board that he felt "compelled" to see that decisions of the Senate and Assembly are executed. Not once in Bacon's sixteen years as Dean had the University President vetoed an action by either body. Hiring decisions, moreover, were jointly made by the Dean and the relevant department chairman (senior professor), with the Dean never appointing a faculty member over the objection of a chairman. All promotion recommendations made by the chairmen's Advisory Council, whether positive or negative, had been put into effect, even when the Dean had opposed the Council's recommendations. Finally, the record showed that senior professors largely determine the budget of their subject area. *Id.* at 691.

At the Erna Michael College of Hebraic Studies, admissions procedure, curricular matters, grading, scheduling, and other questions of policy are subjects on which the faculty, through the faculty meeting, "governs". Dean Rabinowitz testified before the Board that he felt "bound" to institute even those faculty decisions with which he disagreed, such as the establishment of a trimester academic calendar. *Id.* at 692. Neither Dean Rabinowitz nor any other member of the administration had ever vetoed a decision of the faculty on such issues, the Dean testifying that his role was "simply [to] carry out the mandate of the faculty." *Id.* at 700, n. 17.

Before concluding that the full-time Yeshiva faculty played an instrumental role in the operation and governance of the various academic units of the University and, therefore, must be excluded from the bargaining unit, the Second Circuit noted numerous additional circumstances from the record. For instance, the Director of James Striar School of General Jewish Studies, who himself carries a full-time teaching load, had testified that faculty meetings are "in a great sense decisive as to the direction of the school," *id.* at 692, and that he did not recall ever overruling a direct recommendation of the faculty. He also testified that on one occasion a majority of the faculty rejected his recommendation to retain a student guidance procedure, thereby "overruling" him on the issue. *Id.*

The Director of the Yeshiva Program testified that all decisions affecting academic matters were made by a consensus of the faculty. In one instance, the faculty decided to extend the academic calendar by two weeks and this decision was implemented. *Id.* at 692.

The faculty of the Belfer Graduate School, the Second Circuit noted, make all decisions regarding faculty hiring, promotion, tenure and termination. The record reveals that Arthur Komar became Belfer's Dean in 1968 after the faculty successfully petitioned the President of the University for the removal of Komar's predecessor. Thereafter, Komar was elected Acting Dean by the faculty and he obtained a vote of approval from the faculty before accepting a permanent appointment as Dean. Komar testified that he viewed his position as Dean as "first among equals." He further stated that his only role in hiring is his participation—like any other faculty member—in the discussion and voting on applicants to his department. *Id.* at 693.

At Ferkauf, as at Belfer, faculty hiring decisions are made by consensus of the department. Faculty promotions and tenure decisions at Ferkauf are determined by faculty committees. Moreover, department chairmen at Ferkauf wield substantial budgetary power. For example, tuition increases are never recommended by the Dean unless the chairmen concur. Chairmen also establish, in consultation with their departments, the workload of the full-time faculty. *Id.* at 693.

The Acting Dean at Wurzweiler testified that the faculty had the authority to determine the school's "labor policy," by promulgating guidelines which are binding on him governing the school's hiring, promotion, tenure and termination policies. He testified that in addition to wielding great power on academic matters, the faculty had made decisions with "serious budgetary consequences." The uncontroverted evidence in the record reveals that faculty committees played a prominent role in the running of Wurzweiler. *Id.* at 693-94.

At the Bernard Revel School, decisions on curriculum, admissions requirements, degree requirements, and course offerings are all made by consensus of the faculty. Department chairmen make effective recommendations regarding both full- and part-time hiring. In fact, chairmen's negative recommendations in this area have always been upheld. *Id.* at 694.

Upon review of this record, the Court of Appeals concluded that

> "When faculty members have such power—as the record indicates they do at Yeshiva—they no longer are simply exercising individual professional expertise. They are, in effect, substantially and pervasively operating the enterprise." (*Id.* at 698.)

The Court of Appeals also rejected the Board's position that since the faculty's supervisory and managerial functions are exercised "on a collective basis" rather than by individual faculty members, they must be denied status as supervisory or managerial personnel. The court found that "[t]he Board's rationale is not adequately explained in this or in its prior opinions." *Id.* at 698. In a footnote, the court explained:

> "When the Board first announced this view in *C.W. Post Center of Long Island University, supra,* at 905, it did so without benefit of analysis, and without citation to pertinent administrative decisions, judicial precedents or legislative history. In *Fordham University, supra,* the Board repeated its conclusory approach to the problem. Finally, in *Adelphi University, supra,* the Board conceded that its position arose not from precedent but from its puzzlement in attempting to apply to the unique university governance structure terms which were "designed to cope in the typical organizations of the commercial world." *Id.* at 648. The Board admitted that it could not square the Act with the university setting in which "power and authority is vested in a body composed of all of one's peers or colleagues." *Id.* See Kahn, *supra,* at 95, 120-25. In two subsequent decisions, *Northeastern University, supra,* and *Miami University, supra,* the Board refused to further analyze or reconsider the issue of the supervisory or managerial status of full-time faculty. Instead, it dismissed the question, as it did in this case, solely by reference to its earlier rulings." (*Id.* at 698-99, n. 14.)

Pointing to the inconsistent interpretation of Section 2(11) of the Act by the Board, the lack of legislative authority and citable precedent for the "collective authority" approach taken by the Board, and the clear lack of logic in

the Board's reasoning on this point, the court concluded that "the Board has advanced no satisfactory rationale for the weight it has given this factor." *Id.* at 699-700.

The Board denied managerial or supervisory status to the full-time faculty of Yeshiva on the additional ground that the faculty is alleged to be acting on its own behalf and not on behalf of Yeshiva, its employer. The Court of Appeals found that "[t]he record in no way supports this proposition. . . ." *Id.* at 700. Its review of the record made it evident that

> "The full-time faculty as a whole or through committees have not in fact acted simply in an advisory capacity, nor have they merely made recommendations which were accorded substantial weight; their decisions on major policy issues have, for the most part, proved definitive." (*Id.* at 700.)

The court further admonished the Board that *this record* establishes no significant divergence between the interests of the faculty and those of the administration or the Board of Trustees. *Id.* at 701.

Finally, the Second Circuit commented that although none of the criteria applied by the Board and so far discussed had any particular appeal, the concept that the faculty have neither managerial nor supervisory status because they are subject to the ultimate authority of the Board of Trustees is "particularly unconvincing." *Id.* at 701. Every corporation is ultimately operated by its Board of Directors, the court noted, yet that fact has never precluded a finding that there are managerial or supervisory employees in the corporation. *Id.* at 701. Again, the court noted the necessity to scrutinize *this* record: "Of course, it may well be that at other institutions the Boards of Trustees have in fact regularly reviewed and rejected faculty recommendations, but this is not the case at Yeshiva." *Id.* at 702.

The opinion of the Second Circuit emphasizes that each case must rest on its own facts. The court found that the Board, while espousing flexibility in faculty status cases, ignored the facts of this case and instead summarily applied "rigid criteria" carried over from previous decisions. *Id.* at 703. Upon review of *this* record, the Court of Appeals decided that "the facts compel the conclusion under long established standards" that the full-time faculty of Yeshiva must be excluded from the bargaining unit and that "the Board is not now free 'to read a new and more restrictive meaning into the Act.'" *Id.* at 703, quoting *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc.*, 416 U.S. 267, 289 (1974).

REASONS FOR DENYING THE WRIT

I. The Opinion of the Second Circuit Gave Full Consideration to the Issues Presented and Decided Them Correctly.

We are here concerned with the record in *this* case and no other. Courts and administrative agencies do not sit to contemplate hypothetical cases but to decide real ones. Indeed, the Second Circuit was cognizant of this limitation, saying:

> "We stress that our function is not to examine *in vacuo* the governance procedures of all four-year private institutions of learning described in the briefs of the *amici* universities as "mature" institutions of higher education. . . . Given the great diversity in governance structure and allocation of power at such universities it is appropriate to address ourselves solely to the situation at the institution involved in this proceeding. *NLRB* v. *Wentworth Institute*, 515 F.2d 550, 556 (1st Cir. 1975)." (*Id.* at 696.)

This record shows, based on uncontroverted evidence before the Board, that a pervasive system of shared management and supervision exists at Yeshiva;[3] that the full-time faculty must be treated as supervisory and/or managerial personnel and, thus, excluded from the unit; and that the Second Circuit carefully applied the appropriate legal principles to the evidence presented to the Board.

Yeshiva has never argued that the faculty alone run the University. Rather, it has maintained that the faculty share with the administration the operation and governance of the University. That is what this record shows. And, that is what the Second Circuit has correctly concluded from its review of this record.

The Board failed to analyze the record and applied unjustified, arbitrary standards. Its conclusory findings have no basis in the record, and the opinion of the Second Circuit provides the only analysis of the evidence presented.[4]

---

[3] *See* Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication*, 21 U.C.L.A. L. Rev. 63 (1973).

[4] In maintaining that Yeshiva faculty are not managerial or supervisory employees, the Board argues that deference is owed to its determinations in representation matters. The Court of Appeals, while expressly acknowledging the validity of this general principle (582 F.2d at 702) also recognized that no deference is owed where, as in this case, the Board's conclusory findings are not supported by "substantial evidence on the record as a whole" and do not have a "reasonable basis in law." *GAF Corp.* v. *NLRB*, 524 F.2d 492, 495 (5th Cir. 1975). This Court has instructed the courts of appeals to determine the substantiality of evidence supporting a Board decision *not* as a rubber stamp for Board conclusions but rather by taking into account "contradictory evidence or evidence from which conflicting inferences could be drawn." *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474, 487 (1951). Moreover, the Board's discretion is particularly narrow in determining whether an employee is a super-

To correct the Board's summary application of general legal phrases in a manner totally inconsistent with the evidence, the Second Circuit reviewed the record and produced a unanimous opinion limited to the particular facts of this case. This is a one-of-a-kind record of how a unique university, the only one under Jewish auspices, is governed and operated. That record discloses that in many instances the full-time Yeshiva faculty "effectively recommend the hiring, promotion, salary and tenure of the faculty of the University in a manner which can hardly be described as routine or clerical." 582 F.2d at 696. That record discloses that the faculty "further perform managerial functions not only by their personnel decisions but by adopting the standards of admission, the curriculum, the grading system and the graduation requirements of their school." *Id.* at 696. And that record discloses that "in particular cases the hiring of deans, the physical location of a school, teaching loads, and even the tuition to be charged were controlled by the full-time faculty." *Id.* at 696.

Indeed, the Second Circuit noted that the ability of the full-time faculty effectively to recommend or exercise many of the powers enumerated in Section 2(11), and to formulate

visor for "[t]he Act describes supervisors in detail, and the Board can only find as a matter of fact that the individual falls within or without the statutory definition." *NLRB* v. *Esquire, Inc.*, 222 F.2d 253, 257 (7th Cir. 1955). As the cases show, the courts of appeals have not hesitated to vacate the Board's findings that particular employees lack supervisory and managerial status. *E.g., NLRB* v. *Pilot Freight Carriers, Inc.*, 558 F.2d 205 (4th Cir. 1977), *cert. denied*, 434 U.S. 1011 (1978); *NLRB* v. *Detroit Edison Co.*, 537 F.2d 239 (6th Cir. 1976); *NLRB* v. *Metropolitan Petroleum Co.*, 506 F.2d 616 (1st Cir. 1974); *NLRB* v. *Gray Line Tours, Inc.*, 461 F.2d 763 (9th Cir. 1972); *Turner's Express, Inc.* v. *NLRB*, 456 F.2d 289 (4th Cir. 1972); *Arizona Public Service Co.* v. *NLRB*, 453 F.2d 228 (9th Cir. 1971); *NLRB* v. *Metropolitan Life Insurance Co.*, 405 F.2d 1169 (2d Cir. 1968).

and effectuate University policy, was not even disputed.[5] *Id.* at 696.

The Second Circuit applied long-established principles to the record evidence in concluding that the Yeshiva faculty are supervisors and/or managerial personnel. The definition of "employee" in Section 2(3) of the Act, 29 U.S.C. § 152(3), excludes any individual employed as a "supervisor." Section 2(11), 29 U.S.C. § 152(11), defines a "supervisor" as follows:

> "The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

[5] That the administration and Board of Trustees of Yeshiva have so rarely interfered with the faculty's running of the various schools is explained by the fact that the interests of the faculty and of the University are almost always coextensive. Thus, the Court of Appeals correctly stated:

> "Whatever the situation may be in other institutions, the record here establishes no significant divergence between the interests of the faculty and those of the administration or the Board of Trustees. On the contrary, the faculty has initiated, and the administration has repeatedly accepted, major policy determinations which constitute the essence of the University's educational venture."

NLRB v. *Yeshiva University*, 582 F.2d 686, 701 (2d Cir. 1978); *cf. NLRB* v. *Scott Paper Co.*, 440 F.2d 625, 630 (1st Cir. 1971) (court rejected Board's argument, that tractor owner-operators were not supervisors because authority not exercised in interest of employer company, on ground that interests "were so intertwined that powers were exercised for both."); *Deaton Truck Line, Inc.* v. *NLRB*, 337 F.2d 697 (5th Cir. 1964), *cert. denied*, 381 U.S. 903 (1965) (supervisory authority may be exercised in the interest of *both* the employer and employees).

It is well-settled that possession of any one of the enumerated powers in Section 2(11) or the power effectively to recommend with respect to any one of them is sufficient to satisfy the statutory definition of a supervisor. *E.g., NLRB* v. *Metropolitan Life Insurance Co.,* 405 F.2d 1169, 1177 (2d Cir. 1968); *Ohio Power Co.* v. *NLRB,* 176 F.2d 385 (6th Cir.), *cert. denied,* 338 U.S. 899 (1949).

It has also been uniformly held that it is the *possession* of supervisory authority, and not the actual exercise of that authority, that is determinative. Thus, the Ninth Circuit, in *Arizona Public Service Co.* v. *NLRB,* 453 F.2d 228, 230 (9th Cir. 1971), has stated that: "[A]n employee who has the power to fire and hire other employees is nonetheless a supervisor though he has never exercised that power." *See also, NLRB* v. *Gray Line Tours, Inc.,* 461 F.2d 763, 764 (9th Cir. 1972) ("[E]xistence of supervisory authority rather than its exercise is determinative."); *Ohio Power Co.* v. *NLRB,* 176 F.2d 385, 388 (6th Cir.), *cert. denied,* 338 U.S. 899 (1949) ("Section 2(11) covers any individual having authority * * * responsibly to direct * * *. It does not require the exercise of the power described for all or any part of the employee's time. It is the existence of the power which determines the classification.") [6]

In *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc.,* 416 U.S. 267 (1974), this Court confirmed that, in addition to supervisors, *all* managerial employees must be excluded from coverage of the Act, not only those whose unionization

[6] Intervenor-petitioner would have this Court believe that the full-time faculty of Yeshiva are neither managerial nor supervisory personnel because they are professionals. To this end, intervenor-petitioner first concedes that Congress has rejected an opportunity to amend Section 2(11) of the Act to exclude certain health-care professionals from the definition of "supervisor," and then goes on to attempt to rationalize away this congressional decision by saying that it was really unnecessary for Congress to amend Section 2(11) in this manner because the Board had not considered these health-care professionals to be supervisors anyway. (Br., pp. 19-23). The point is, however, that Congress recognized that professionals can be supervisors and that the two classifications are not mutually exclusive. Whether professional people are also supervisors or managers depends upon the facts of each case. And, as the Second Circuit has concluded, the Board failed to analyze the factual circumstances of Yeshiva, which fully support respondent's contention that Yeshiva's full-time faculty exercise supervisory and managerial functions. 582 F.2d at 696.

might lead to conflicts of interest.[7] Employees who fall within this category include "those who formulate, determine, and effectuate an employer's policies." *Retail Clerks International Association* v. *NLRB,* 366 F.2d 642, 645 (D.C. Cir. 1966) (Burger, J.), *cert. denied,* 386 U.S. 1017 (1967). This Court concluded in *Textron* that the Board "'is not now free' to read a new and more restrictive meaning into the Act" by which certain managerial employees would be held to be within its coverage. *Id.* at 289. In the instant case, the Second Circuit simply applied this basic principle to the facts in the record. 582 F.2d at 703.[8]

[7] In that case, at 289, this Court emphasized the mandatory nature of the exclusion of all employees found to be managerial:

> "[T]he Board's early decisions, the purpose and legislative history of the Taft-Hartley Act of 1947, the Board's subsequent and consistent construction of the Act for more than two decades, and the decisions of the courts of appeals all point unmistakably to the conclusion that managerial employees are not covered by the Act."

[8] Intervenor-petitioner tells this Court that the Second Circuit was somehow in error because there is evidence that the University administration dealt with certain faculty welfare committees about salaries (Br., pp. 15-16). Obviously, managers and supervisors have salary concerns, just as do rank-and-file employees. That the administration dealt with those problems on occasion through faculty welfare committees does not render the affected faculty or the members of the committees non-managerial or non-supervisory. The argument begs the question.

The record evidence led the Second Circuit to the only proper decision—exclusion of the full-time Yeshiva faculty from the bargaining unit because of their supervisory and managerial authority.[9] To do otherwise would effectively excise those exclusions from the Act. As this Court has said,

> "Reviewing courts must be influenced by a feeling that they are not to abdicate the conventional judicial function. Congress has imposed on them responsibility for assuring that the Board keeps within reasonable grounds." *Universal Camera Corp.* v. *NLRB,* 340 U.S. 474, 490 (1951).

II. This Court Should Not Grant Certiorari to Review Evidence or to Discuss Specific Facts.

Petitioner has advanced no valid basis for the grant of certiorari. Asserting neither a conflict in the circuits nor that the decision of the Second Circuit is in conflict with applicable decisions of this Court, petitioner is simply asking this Court to review evidence and discuss specific facts. But not every case merits Supreme Court review. This case certainly does not.

---

[9] Indeed, much less authority than has been shown here has routinely led the NLRB to exclude persons in the industrial sector as managers and supervisors. For example, in *General Telephone Co. of Michigan,* 112 N.L.R.B. 46, 48-50 (1955), service assistants, who had "no authority to hire, discharge, assign, promote, or discipline employees," were held to be supervisors because their evaluations of operators were given "substantial weight" by chief operators. This was so even though the chief operators made "thorough investigation before disciplining operators or effecting changes in their status, and [were] in a position to form personal estimates of their qualifications." Similarly, in *Pittsburgh Plate Glass Co.,* 115 N.L.R.B. 976, 977 (1956), laboratory assistants were held to be supervisors merely because their hiring recommendations were given "effective weight" by management. And, in *Transformer Engineers,* 114 N.L.R.B. 1325, 1327 (1955), leadladies were excluded from the bargaining unit because foremen gave "great weight" to their opinions about employee performance.

The decision below is carefully restricted to the particular and unique facts of this case and, therefore, should affect few others than the litigants. This decision will not upset collective bargaining relationships at other universities because it is expressly limited to the situation at Yeshiva.

Nevertheless, the petitioner and the intervenor-petitioner ask this Court to scrutinize the extensive record to determine whether any facts exist which may be contrary to the opinion of the Court of Appeals. As Justice Holmes wrote in *United States* v. *Johnston,* 268 U.S. 220, 227 (1925): "We do not grant a certiorari to review evidence and discuss specific facts."

For many years, this Court has in these circumstances steadfastly refused to second-guess the appellate courts as to their review of the record before an administrative agency, such as the NLRB. Thus, this Court has stated:

> " 'Whether on the record as a whole there is substantial evidence to support agency findings is a question Congress has placed in the keeping of the Courts of Appeals. This Court will intervene *only* in what ought to be the rare instance when the standard appears to have been misapprehended or *grossly* misapplied.' " (Emphasis supplied.) *Universal Camera Corp.* v. *NLRB,* 340 U.S. 474, 491 (1951).

Nothing in this case warrants deviation from this long-established principle.

III. No Conflict Exists Between Decisions of Courts of Appeals.

The decision of the Second Circuit is the only reported decision of an appellate court on the question upon which certiorari is being sought. *See NLRB* v. *Yeshiva University,* 582 F.2d 686, 695 n. 9 (1978). In fact, the Solicitor General has expressly told this Court, and we agree, that there is no conflict between the decision of the Second Circuit in *Yeshiva* and the decision of the First Circuit in *Boston University* v. *NLRB,* 575 F.2d 301 (1st Cir. 1978), *petition for cert. pending,* No. 78-67, the only other appellate decision which even touches on a similar issue and the case relied on by the intervenor-petitioner to argue that there is in fact a conflict. (Brief of the Solicitor General in *Boston University,* p. 17).

The Brief of the Solicitor General in Opposition to the Petition for Certiorari in the *Boston University* case dismisses all possible claim to a conflict among the circuits as follows:

> "In *Yeshiva,* the Second Circuit held that the entire full-time faculty of the university were supervisory or managerial employees. No such issue was raised here; indeed petitioner conceded throughout the instant proceeding that its full-time faculty constituted an appropriate bargaining unit, but contended that department chairmen should be excluded based on their alleged supervisory status. The Second Circuit in *Yeshiva* itself noted the limited scope of the instant decision." (Br., p. 17, n. 11).

Moreover, the Brief in Opposition filed by the Boston University Chapter, American Association of University Professors, argues forcefully that "the *Yeshiva* decision affords no basis for Court review of the instant [*Boston University*] case, since the issue on which it [*Yeshiva*] was decided has not been advanced here." (Br., pp. 8-9). And,

nothing in the brief in this case of the *amicus* American Association of University Professors even suggests the presence of a conflict.

This case concerns the particular nature of Yeshiva and the distinctive manner of its operation. No other court of appeals has been faced with the faculty status problems which exist at Yeshiva; therefore, no conflict exists.

IV. Granting the Petition for Certiorari Would Be Harmful to the Effective Administration of Justice.

The Solicitor General tells us, in essence, that the *Yeshiva* decision, if allowed to stand, would interfere with the effective administration of justice because it would unsettle the law established by the Board and cause other colleges and universities to pursue representation proceedings to determine the managerial and supervisory status of faculties at their institutions, rather than to consent to NLRB-conducted elections or to accept previously-issued certifications. (Br., pp. 16, 25-27). Obviously, subsequent litigation by other interested parties may follow a Court of Appeals decision of first impression, as is this case, albeit a decision limited to its facts. However, if this so-called threat were accepted as an adequate reason for granting certiorari, every Court of Appeals decision of first instance that materially disagrees with and reverses an agency's determinations would come "automatically" before this Court for review.[10]

In any event, in the particular circumstances present here, the effective administration of justice would be better served by a denial of certiorari.

---

[10] Indeed, although several months have elapsed since the Court of Appeals issued its decision, neither of the petitioners nor the *amicus* (despite a demonstrated willingness to go outside the record) has cited to this Court a single example of the decision below having caused the termination of any existing collective bargaining relationship. This is not surprising, for not only is *Yeshiva* limited to its facts, but nothing in that decision precludes a private university from recognizing or bargaining with managerial personnel or makes it unlawful for such employees to seek to bargain or to maintain their unionized status.

At the root of the Court of Appeals decision in *Yeshiva* is the fact that the Board has been internally inconsistent in the administration of the Act with respect to questions of faculty status. The Court of Appeals noted that since the Act itself is silent as to its application to professional faculties in private institutions of higher learning "it would seem that an appropriate method to explore fully the special problems created by the Board's assumption of jurisdiction here would be by rule-making." *Id.* at 703.

In 1971, both the American Association of University Professors (which is an *amicus* here) and the Association of American Universities requested the Board to institute a rule-making proceeding to establish guidelines to be used in representation cases involving faculty members of colleges and universities. The Board denied that petition, citing the need for a flexible adjudicative approach by which it could explore and analyze in depth the facts of each case. *Id.* at 703.

The Board's denial of a rule-making proceeding is, indeed, curious because, as the Second Circuit concluded, since that denial "in its adjudicative process the Board has consistently applied . . . rigid criteria . . . ." *Id.* at 703. The opinion below demonstrates that the Board has not engaged in a case-by-case consideration of the facts. *Id.* at 696. Regardless of the record evidence, in *Yeshiva* and preceding university faculty-status representation cases, the Board has attempted to adopt an unbending rule which it simply reiterates in each decision.

What the Board did in this case was to sacrifice the proper administration of labor law under the Act to expediency, a process of "jurisprudence" by cryptic reference to previous Board rulings equally devoid of factual analysis and legal exegesis. After painstaking effort by Yeshiva to produce a complete record, the Board responded once again with "rigid criteria" carried over from its laconic earlier decisions and produced what can best be described as a mechanistic result that simply does not square with the record.[11]

In its brief, the Solicitor General now seeks to provide a cogent factual rationale for the Board's determination, something that is entirely lacking in its underlying representation decision. (Br., pp. 4-13). But the law, as stated by this Court, is that "courts may not accept appellate counsel's *post hoc* rationalizations for agency action . . . . For reviewing courts to substitute counsel's rationale or their discretion for that of the Board is incompatible with the orderly function of the process of judicial review." *NLRB* v. *Metropolitan Life Insurance Co.*, 380 U.S. 438, 444 (1965).

As Chief Justice Taft wrote in *Magnum Import Co.* v. *Coty*, 262 U.S. 159, 163 (1923):

> "The jurisdiction to bring up cases by certiorari from the Circuit Courts of Appeals was given for two purposes, first to secure uniformity of decision between those courts in the nine circuits, and second, to bring up cases involving questions of importance which it is in the public interest to have decided by

[11] We are not saying that the Board must provide a detailed analysis in every case that comes before it. Here, however, there has been no independent review of the more than 4600 pages of record or findings by an administrative law judge, as there would be in most unfair labor practice cases. Nor did the Board allow the underlying representation case to be decided in the first instance by the Regional Director, thus eschewing the need for a review of the record and a decision and determination at the local level, subject to review by the Board itself. Rather, the Board chose to decide the underlying representation case itself and did so in a way which the Second Circuit rejected as without factual or legal support.

> this Court of last resort. The jurisdiction was not conferred upon this Court merely to give the defeated party in the Circuit Court of Appeals another hearing."

Surely, this Court does not sit merely to give the defeated party before the Court of Appeals (even when it is the Government) another hearing and an opportunity to supply a "*post hoc* rationalization for agency action." And surely, this Court does not sit to find the facts that the Board was unwilling or unable to analyze. The Second Circuit has already sifted through the extensive record and has pointed out to the Board the error of its ways. There is no reason consistent with the effective administration of justice for this Court to repeat the task.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

SAUL G. KRAMER
Counsel for Respondent
Yeshiva University

Of Counsel:
GERALD A. BODNER
1300 Morris Park Avenue
Bronx, New York 10461

PETER G. SAMUELS
MARK L. GOLDSTEIN
PROSKAUER ROSE GOETZ & MENDELSOHN
300 Park Avenue
New York, New York 10022

January 16, 1979

Supreme Court, U.S.
FILED
FEB 7 1979
MICHAEL RODAK, JR., CLERK

No. 78-857

In the Supreme Court of the United States

OCTOBER TERM, 1978

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

REPLY MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

JOHN S. IRVING
General Counsel

JOHN E. HIGGINS, JR.
Deputy General Counsel

ROBERT E. ALLEN
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

LINDA SHER
Assistant General Counsel
National Labor Relations Board
Washington, D.C. 20570

In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-875

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

REPLY MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

---

1. Respondent contends that no issue warranting review is presented because the court of appeals' holding that the faculty at Yeshiva are managerial or supervisory personnel, and thus exempt from the National Labor Relations Act, is "limited to the particular facts of this case" which depict a "unique university" (Br. in Op. 14). Respondent further attempts to minimize the significance of the decision below by arguing that the court merely found that the Board's "conclusory findings have no basis in the record" (*id.* at 13). Respondent is mistaken in these assertions.

While the court of appeals purported "to address [itself] solely to the situation at the institution involved in this proceeding" (Pet. App. 22a), the elements of faculty responsibility and participation on which the court relied in finding managerial or supervisory status are, as the Board noted in its decision (Pet. App. 68a), essentially the same as those found in other universities. Moreover, as shown

in the petition (pages 17-25), the basic difference between the Board and the court is not over the facts, but over the legal conclusion to be drawn from those facts.[1]

Respondent points out (Br. in Op. 14) that the court of appeals found that the Yeshiva faculty play an important role in decision-making regarding such matters as the hiring, compensation, and tenure of one another, as well as the establishment of curriculum and academic and admissions standards. The Board did not find otherwise. It concluded, however, that the role that the faculty played in the decision-making process affecting such matters did not make them managerial or supervisory employees because they were not aligned with the University administration in carrying out their responsibilities (Pet. 21-23). Similarly, respondent notes (Br. in Opp. 11) that the court found that the record "establishes no significant divergence between the interests of the faculty and those of the administration" on such matters. Again, the Board did not find otherwise. Rather, in the Board's view, it is not the fact of agreement or disagreement on particular issues that determines alignment, but whether the faculty is advocating its own interests or those of management and whether they are accountable to management for their opinions on such matters (Pet. 22-25).

The important difference between the Board and the court of appeals over the legal significance to be attached to basically undisputed facts regarding the managerial or supervisory status of faculty members warrants resolution by this Court. None of the alleged peculiarities at Yeshiva University pointed to by respondent or the court of appeals is material to the rationale of the Board's decision

[1]The facts referred to in our petition are based on testimony and exhibits presented by respondent in the Board's representation proceeding. They do not conflict with the facts described by the Second Circuit. Respondent's brief in opposition does not dispute the accuracy of the facts we have cited.

in this and similar cases. In view of the similarity between this and other cases involving university faculty members, the decision below, if allowed to stand, would upset collective bargaining relationships at other universities.

2. Equally insubstantial is respondent's contention (Br. in Opp. 22-23) that certiorari should be denied because the Board's decisions with respect to faculty members have been "internally inconsistent," and the Board, instead of analyzing the facts of this particular case, applied "rigid criteria" developed in earlier decisions. As shown in the petition (pages 13-14 n.12), the Board has consistently held that faculty members are employees within the meaning of the Act; respondent cites no case to the contrary. Moreover, because the Board accepted respondent's basic factual contentions but nonetheless concluded that the role of the faculty here was similar to that in other universities, there was no need for a detailed discussion of the facts or of applicable legal principles. The Board adequately explained the basis for its decision by referring to its prior relevant decisions and by summarizing the principles enunciated in those cases (Pet. App. 67a-68a & nn. 5-6). Finally, the analysis in the petition is not "appellate counsel's *post hoc* rationalization for agency action" (Br. in Opp. 23). Rather, it is a description of the underlying reasoning applied by the Board in this and its earlier cases.[2]

[2]The Board is not to be faulted for determining the employee status of university faculty members in an adjudicatory proceeding rather than a rule-making proceeding (Br. in Opp. 22). The Board has discretion to proceed by adjudication in this area. See *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 290-295 (1974).

For these reasons, as well as those set forth in the petition, we respectfully submit that the petition for a writ of certiorari should be granted.

WADE H. MCCREE, JR.
Solicitor General

JOHN S. IRVING
General Counsel

JOHN E. HIGGINS, JR.
Deputy General Counsel

ROBERT E. ALLEN
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

LINDA SHER
Assistant General Counsel
National Labor Relations Board

FEBRUARY 1979

DOJ-1979-02

Supreme Court, U. S.
FILED
JUN 1 1979
MICHAEL RODAK, JR., CLERK

Nos. 78-857 and 78-997

In the Supreme Court of the United States

OCTOBER TERM, 1978

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

YESHIVA UNIVERSITY FACULTY ASSOCIATION, PETITIONER

v.

YESHIVA UNIVERSITY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

WADE H. MCCREE, JR.
Solicitor General
LAWRENCE G. WALLACE
Deputy Solicitor General
STEPHEN M. SHAPIRO
Assistant to the Solicitor General
Department of Justice
Washington, D.C. 20530

JOHN S. IRVING
General Counsel
JOHN E. HIGGINS, JR.
Deputy General Counsel
ROBERT E. ALLEN
Acting Associate General Counsel
NORTON J. COME
Deputy Associate General Counsel
LINDA SHER
Assistant General Counsel
DAVID S. FISHBACK
Attorney
National Labor Relations Board
Washington, D.C. 20570

INDEX

	Page
Opinions below	1
Jurisdiction	2
Question presented	2
Statute involved	2
Statement	5
Summary of argument	20
Argument	24
The Board properly concluded that full-time faculty members at Yeshiva are professional employees entitled to the protections of the National Labor Relations Act	24
A. Although supervisors and managers are excluded from the coverage of the Act, the Act protects professional employees	24
B. Faculty members are professional employees rather than managers or supervisors because they exercise independent professional judgment when participating in university governance	36
1. Faculty members exercise independent professional judgment and do not serve as agents or representatives of the university's management	36

Argument—Continued

	Page
2. Because faculty members exercise independent professional judgment in their own interest rather than that of management, the Board consistently has held that they are employees covered by the Act	40
3. Collective bargaining by faculty members is similar to collective bargaining by other professional employees and does not undermine principles of shared authority within the university	45
C. Substantial evidence supports the Board's finding that the faculty's role at Yeshiva is essentially the same as that of faculties at other universities and that the faculty acts for itself rather than management	48
Conclusion	54

CITATIONS

Cases:

Adelphi University, 195 N.L.R.B. 639	18, 21, 36, 37, 40, 41, 42, 44
American Broadcasting Cos. v. *Writers Guild*, 437 U.S. 411	24, 44, 53-54
Bayside Enterprises, Inc. v. *NLRB*, 429 U.S. 298	54
Beasley v. *Food Fair of North Carolina, Inc.*, 416 U.S. 653	26
Bell Aerospace, A Division of Textron, Inc., 219 N.L.R.B. 384	29

Cases—Continued

Beth Israel Hospital v. *NLRB*, 437 U.S. 483	22, 24, 44, 53
Board of Governors of Federal Reserve System v. *First Lincolnwood Corp.*, No. 77-832 (Dec. 11, 1978)	45
C.W. Post Center of Long Island University, 189 N.L.R.B. 904	18, 42, 44, 48-49
Cornell University, 183 N.L.R.B. 329	34
Detroit Edison Co. v. *NLRB*, No. 77-968 (Mar. 5, 1979)	34
Fairleigh Dickinson University, 205 N.L.R.B. 673	42
Fairleigh Dickinson University, 227 N.L.R.B. 239	41
Fibreboard Paper Products Corp. v. *NLRB*, 379 U.S. 203	45, 49
Ford Motor Co. v. *NLRB*, No. 77-1806 (May 14, 1979)	44
Fordham University, 193 N.L.R.B. 134	18, 42, 44, 49
General Dynamics Corp., 213 N.L.R.B. 851	28, 31-32, 33
Hills Department Store, 155 N.L.R.B. 1163	50
Hunt v. *McNair*, 413 U.S. 734	35
International Ladies' Garment Workers' Union v. *NLRB*, 339 F.2d 116	27
International Union of United Brewery Workers v. *NLRB*, 298 F.2d 297, cert. denied, 369 U.S. 843	27
Jas. H. Matthews & Co. v. *NLRB*, 354 F. 2d 432	27
Lawn v. *United States*, 355 U.S. 339	34
Manhattan College, 195 N.L.R.B. 65	44

Cases—Continued Page

Marine Engineers Beneficial Ass'n v. *Interlake Steamship Co.*, 370 U.S. 173....22, 32, 44
Montgomery Ward & Co., 93 N.L.R.B. 640 50
NLRB v. *Bell Aerospace Co.*, 416 U.S. 267 .....21, 22, 27-28, 30, 32
NLRB v. *Catholic Bishop of Chicago*, No. 77-752 (Mar. 21, 1979) 34, 35
NLRB v. *Fullerton Publishing Co.*, 283 F.2d 545 41
NLRB v. *Security Guard Service, Inc.*, 384 F.2d 143 27
NLRB v. *Wentworth Institute*, 515 F.2d 550 35
New York University, 205 N.L.R.B. 4.... 18, 37, 40-41, 42, 44
Northeastern University, 218 N.L.R.B. 247 .....18, 42, 49
Packard Motor Car Co. v. *NLRB*, 330 U.S. 485 ..... 25, 26
Palace Laundry Dry Cleaning, 75 N.L.R.B. 320 28
Presbyterian Medical Center, 218 N.L.R.B. 1266 31
Quick Shop Markets, Inc., 168 N.L.R.B. 180 50
Retail Clerks International Ass'n v. *NLRB*, 366 F.2d 642, cert. denied, 386 U.S. 1017 28
Roemer v. *Board of Public Works*, 426 U.S. 736 35
Saxbe v. *Bustos*, 419 U.S. 65 45
Skidmore, Owings & Merrill, 192 N.L.R.B. 920 31

Cases—Continued Page

Sonotone Corp., 90 N.L.R.B. 1236 31
Stop & Shop Companies, Inc. v. *NLRB*, 548 F.2d 17 27
Syracuse University, 204 N.L.R.B. 641.... 42
Tilton v. *Richardson*, 403 U.S. 672 35
Trustees of Boston University v. *NLRB*, 575 F.2d 301, petition for cert. pending, No. 78-67 .....32, 42-43
Trustees of Columbia University, 97 N.L.R.B. 424 34
University of Chicago, 205 N.L.R.B. 220, enforced, 506 F.2d 1402 32
University of Miami, 213 N.L.R.B. 634..18, 22, 41
Westinghouse Electric Corp., 113 N.L.R.B. 337 31
Westinghouse Electric Corp. v. *NLRB*, 424 F.2d 1151 32
Wurster, Bernardi & Emmons, Inc., 192 N.L.R.B. 1049 31

Constitution and statutes:

United States Constitution, First Amendment 35
National Labor Relations Act, 29 U.S.C. 151 *et seq.* 2
Section 2, 29 U.S.C. 152 3
Section 2(3), 29 U.S.C. 152(3)..... 3, 25
Section 2(11), 29 U.S.C. 152(11).... 3, 20, 25, 27
Section 2(12), 29 U.S.C. 152(12).... 4, 19, 22, 48
Section 2(12)(a), 29 U.S.C. 152(12)(a) 29
Section 8(a), 29 U.S.C. 158(a) 4

Constitution and statutes—Continued Page

Section 8(a)(1), 29 U.S.C. 158(a)(1) 5, 18
Section 8(a)(5), 29 U.S.C. 158(a)(5) 5, 18
Section 9(b)(1), 29 U.S.C. 159(b)(1) 29
Section 10(e), 29 U.S.C. 160(e) 53
Pub. L. No. 93-360, 88 Stat. 395 33

Miscellaneous:

Amendments to the National Labor Relations Act: Hearings on H.R. 8, etc. Before the House Comm. on Education and Labor, 80th Cong., 1st Sess. (1947) 31
American Association for Higher Education, *Faculty Participation in Academic Governance* (1967) 38, 39, 47
J. Baldridge, *Power and Conflict in the University* (1971) 37
J. Brubacher & W. Rudy, *Higher Education in Transition: A History of American Colleges and Universities, 1636-1968* (1968) 36-37
O. Carmichael, *Universities: Commonwealth and American* (1959) 36, 37
Chronicle of Higher Education (June 26, 1978) 46
120 Cong. Rec. 12938 (1974) 35
P. Drucker, *Management: Tasks, Responsibilities, Practices* (1974) 30, 31
N. Fehl, *The Idea of a University in East and West* (1962) 36
Finkin, *The NLRB in Higher Education*, 5 Tol. L. Rev. 608 (1974) 39, 47, 49, 50, 51

Miscellaneous—Continued Page

Finkin, *The Supervisory Status of Professional Employees*, 45 Fordham L. Rev. 805 (1977) 30, 31
H.R. Conf. Rep. No. 510, 80th Cong., 1st Sess. (1947) 27, 33, 45
H.R. Rep. No. 245, 80th Cong., 1st Sess. (1947) 25, 26, 27
H.R. Rep. No. 93-1051, 93d Cong., 2d Sess. (1974) 35
Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication*, 21 U.C.L.A. L. Rev. 63 (1973) 47
D. Knowles, *The Evolution of Medieval Thought* (1962) 36
Labor Relations Program: Hearings on S. 55 & S.J. Res. 22 Before the Senate Comm. on Labor and Public Welfare, 80th Cong., 1st Sess. (1947) 31
Mason, *College and University Government*, XIV Tulane Studies in Political Science 1 (1972) 39
Report of the Carnegie Commission on Higher Education, *Governance of Higher Education* (1973) 46
S. Rep. No. 105, 80th Cong., 1st Sess. (1947) 20, 25, 27, 45
S. Rep. No. 573, 74th Cong., 1st Sess. (1935) 34-35
S. Rep. No. 93-766, 93d Cong., 2d Sess. (1974) 22, 33
Statement on Government of Colleges and Universities, 52 A.A.U.P. Bull. 375 (1966) 38, 39

In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

No. 78-997

YESHIVA UNIVERSITY FACULTY ASSOCIATION, PETITIONER

v.

YESHIVA UNIVERSITY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-42a) is reported at 582 F.2d 686. The decision and

order of the National Labor Relations Board (Pet. App. 45a-62a) are reported at 231 N.L.R.B. 597. The Board's decision and direction of election in the underlying representation proceeding (Pet. App. 63a-79a) are reported at 221 N.L.R.B. 1053.

JURISDICTION

The judgment of the court of appeals (Pet. App. 43a-44a) was entered on July 31, 1978. The petitions for a writ of certiorari were filed on November 27, 1978 (No. 78-857) and December 19, 1978 (No. 78-997), within the period for filing as extended by Mr. Justice Marshall. Both petitions were granted on February 21, 1979 (A. 3, 4).[1] This Court's jurisdiction rests on 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether faculty members who participate in decision-making regarding the hiring, compensation, and promotion of the faculty and the academic standards of the university are managerial or supervisory employees excluded from the protections of the National Labor Relations Act.

STATUTE INVOLVED

The relevant provisions of the National Labor Relations Act, 29 U.S.C. 151 *et seq.*, are reproduced below.

---

[1] "A." refers to the joint appendix filed in this Court.

Section 2, 29 U.S.C. 152, provides in pertinent part:

* * * * *

(3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to the Railway Labor Act, as amended from time to time, or by any other person who is not an employer as herein defined.

* * * * *

(11) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

* * * * *

(12) The term "professional employee" means—

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

* * * * *

Section 8(a), 29 U.S.C. 158(a), provides in pertinent part:

It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7 * * * [or]

* * * * *

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a) * * *.

* * * * *

STATEMENT

1. In 1974, the Yeshiva University Faculty Association (the Union) filed a representation petition with the Board seeking certification as the bargaining agent of the full-time faculty members of most of the schools at Yeshiva University (the University) (Pet. App. 65a-66a).[2] The Board held a representation hearing during which evidence was presented showing the size and structure of the University, its system of internal governance, and the role of the faculty in the operations of the University. The evidence showed that the University is a private educational institution,[3] chartered by the State of New

[2] The Union did not seek to represent the faculty of the Albert Einstein College of Medicine, the Sue Golding Graduate School of Medical Sciences, the Yeshiva High School, or any of the theological programs affiliated with the University (Pet. App. 65a-66a). (At the time of the Union's representation petition, Yeshiva University did not have a law school.)

[3] The University's charter provides for governance by a self-perpetuating Board of Trustees (A. 784). The charter contains no provision for control by any religious body or institution, and expressly provides that "[p]ersons of every religious denomination shall be equally eligible to offices and appointments" (A. 785, 7).

York, with facilities located on four campuses in New York City (Pet. App. 64a). Approximately 2,500 full and part-time students attend the schools of the University involved in this proceeding (Pet. App. 5a-6a). Those schools have approximately 209 full-time and 150 part-time faculty members (A. 1282-1285, 1315-1325, 1338-1340, 1342-1343, 1355-1356, 1371-1372, 1399-1400, 1411-1413, 1417-1422).[4]

The ultimate policy and decision-making body at the University is the Board of Trustees, on which no faculty members sit (A. 39, 729, 1187). The University President, who is the chief executive officer of the University, is a member of the Board of Trustees (A. 39, 229, 1187-1188). The next stratum of the University administration consists of the Vice-Presidents for Academic Affairs, Business Affairs, and Student Affairs (A. 6, 39-40, 116-117). Administrative officers with more limited areas of responsibility include the Registrar, Bursar, and Director of Admissions (A. 1177-1178). The chief administrative officer of each of the schools is the dean or director, who serves as "the liaison officer between the programmatic activities of the school and other schools

[4] The schools involved are: Yeshiva College ("Yeshiva"), Stern College for Women ("Stern"), Teachers Institute for Women ("Teachers"), the Erna Michael College for Hebraic Studies ("Erna Michael"), the James Striar School of General Jewish Studies ("James Striar"), the Yeshiva Program, the Bernard Revel Graduate School ("Revel"), the Wurzweiler School of Social Work ("Wurzweiler"), the Ferkauf Graduate School of Humanities and Social Sciences ("Ferkauf"), and the Belfer Graduate School of Science ("Belfer") (Pet. App. 64a n.1). These schools are referred to collectively as "the University" unless otherwise specified.

[within the University] and the central administration" (A. 94), and reports and is responsible to the academic Vice-President and the President (A. 21-22, 245-246, 320).

The Executive Council of the University, whose members are appointed by the President with the concurrence of the Board of Trustees, consists of the deans and directors of the various schools, and the directors of various administrative divisions (A. 41-42). It normally meets twice a month and has within its purview "all of the academic and administrative problems of the university." It is "primarily a recommending body," suggesting policies and procedures "to the president who then issues directives" (A. 42).[5]

The administration also has various committees. For example, the budget committee, which is appointed by the President and, at the time of the Board hearing, consisted of the Vice-President for Business Affairs, the Registrar, and the Dean of Erna Michael, formulates the budget for each component school and the institution as a whole (A. 121-122). Financial guidelines of university-wide application—such as freezes on hiring of non-academic personnel and on faculty salaries, suspension of sab-

[5] The role of the Executive Council in University governance is illustrated by a recent change in tenure policy. The new policy was initially formulated by Council member Bacon, Dean of Yeshiva College, who consulted with Faculty Welfare Committees (discussed on page 17, *infra*) of various schools in the University. Dean Bacon then presented the proposal to the Executive Council, which made certain changes, and finally presented it through the President to the Board of Trustees for ultimate approval (A. 292-293).

batical leaves, and budgetary restrictions, which were imposed in the early 1970s due to a University fiscal crisis—are formulated by the budget committee and submitted to the Executive Council. They are then submitted to the President for final approval (A. 121-130, 67-68, 696-697). The budget for each individual school (and for departments within larger schools) is drafted initially by the dean of the school or the department chairman who, after meetings with the budget committee, submits the draft to the Vice-President for Business Affairs. The Vice-President for Business Affairs reviews it with the budget committee and then submits it to the President for approval (A. 89-90, 125-126, 545-547, 661-662).[6]

The Faculty Handbook prescribes policies and procedures of university-wide application (A. 1177-1210). Final determination of the Handbook's contents is made by the Executive Council, with the approval of the President and the Board of Trustees. When changes in the Handbook are to be made, faculty committees at the various schools are "asked to make comments" to the appropriate University committee (A. 83-84, 115-116). University-wide policies applicable to the full-time faculty[7] at all schools gov-

[6] There is no evidence that faculty members other than certain department chairmen are involved in the development of budgets (except for requesting funds for scientific equipment) (A. 290, 712).

[7] All references are to the full-time faculty unless otherwise noted. Full-time faculty members are required to devote their time exclusively to the University. Permission for outside work can be given only by the President after approval of the dean (A. 10-11, 343, 469, 540, 1189-1190, 1211-1212).

ern the required teaching load, and are determined by the Executive Council (A. 11, 55-56). There also is an administratively determined faculty salary scale,[8] and university-wide tenure, sabbatical, and mandatory retirement policies (A. 64-65, 67, 68, 1181-1182, 1191-1199).[9] The health and disability plans, the group life insurance plan, and the retirement income plan that the University offers to faculty members are university-wide in application (A. 1199-1201).

The University President appoints all full-time teaching personnel, receiving recommendations from the deans and the Vice-Presidents for Academic Affairs and Business Affairs. Dr. Joshua Fishman, Vice-President for Academic Affairs, explained the process as follows (A. 89):

> The deans are in the pivotal position in connection with hiring. The programs with which they are in touch express needs for new faculty to them. The university administration lets them know about the budgetary possibilities. The deans, therefore, together with each other and with the people in the programs try to translate those possibilities into what should be done.

[8] In schools with a pre-set salary scale, faculty members advance along the scale in annual steps based upon rank and years of service, receiving whatever increase the scale allows (A. 135). For schools that have no prescribed scale, and for faculty members who are at the top of the scale, the budget committee determines the appropriate raise in salary, if any (A. 136-138).

[9] The President of the University twice failed to respond to pleas by the faculty of Yeshiva College to reconsider the University's policy of mandatory retirement for tenured professors at age 68, and a third time rejected the faculty position as "baseless" (A. 713, 715-716, 1463-1464).

Some of it could be used for full time faculty or for part time faculty or for other acquisitions.

At any rate, this kind of discussion goes back and forth and normally, depending on the size of a school, some schools are really so small that you would consider them departments, and, therefore, the dean is in touch with the whole faculty and, therefore, he doesn't need anyone else to recommend this to him. But in a larger school it would be the chairman who mostly works with the dean and, therefore, the program faculty of that department or the various departments involved in the program that are communicating with the chairman, he communicates with the dean.[10]

The dean is in touch with other deans.

In other words, it's a pooling of information which is fed to the dean and which is then fed to me and to Dr. Sokol [Vice-President for Business Affairs] and so forth, to the president.

[10] Belfer, Ferkauf, Revel and James Striar are organized into departments and their faculties elect department chairmen (A. 169, 369, 410, 590, 625, 673). Yeshiva's faculty is broken down into divisions, and each division elects a division chairman. In addition, the most senior professor in each academic subject area at Yeshiva and Erna Michael represents the other professors in that area (A. 244-245, 265-270, 306-307). The department chairmen at Stern are recommended by the dean for appointment by the President (A. 209). These chairmen are viewed by the deans as the representatives of the faculty of their respective departments, and have been subject to recall by their departmental colleagues in some cases (A. 410-411, 475, 664). There are no department chairmen at Wurzweiler, Teachers, or the Yeshiva Program, where the faculty acts as a body (A. 374, 496-497).

Dr. Sheldon Sokol, Vice-President for Business Affairs, stated that his "involvement relates to the staffing of individual schools with regard to the fiscal consequences of appointments and * * * expanding or contracting the number or the level of the faculty involved" (A. 120). He added that, unless overruled by the President, he had "an effective veto" over salary recommendations which were inconsistent with University policy, and that, while "we try to approach academic life by arriving at decisions by consensus," he would block any proposals which conflicted with "institutional philosophy or policy" (A. 141).[11]

Recommendations for faculty promotions proceed through a similar process. Vice-President Fishman explained that "[a]ll recommendations for promotions finally wind up on my desk. They start out normally in the faculty member's own department where some consensus is reached that he should be recommended for promotion. * * Normally that then is communicated to the promotion committee of the school, and if that recommendation is * * * acceptable to them, they so recommend to the dean who normally himself has to * * * approve that recom-

[11] Dr. Sokol has never had to exercise his veto power because, "through the process of discussion and cooperation," salary requests have changed significantly from the time they were originally submitted to him. Through this process of discussion, the parties reach "a general consensus and agreement that the appointment could be consummated." Thus, salaries of new faculty members are not set by the schools but rather result from discussions between the deans and Dr. Sokol (A. 141-142).

mendation" (A. 56-57). The recommendation then goes to Vice-President Fishman, who evaluates it on behalf of the President in terms both of the school's requirements for promotion and his independent appraisal of the quality of the candidate's scholarship (A. 57-59). Without Fishman's approval, the candidate could not be promoted (A. 59). Fishman added that the deans frequently discuss potential recommendations with him informally before they are formally submitted "so that they won't run into last minute questions, and so that they don't have to be turned down" (A. 58).[12]

[12] Faculty input into promotion decisions varies from school to school. At Wurzweiler, there is no general faculty involvement; instead, discussion is limited to the dean and the faculty member seeking promotion. If the dean agrees that the request is legitimate, it is sent to the President for approval (A. 529-530). At Stern, an elected faculty Promotions Committee (which includes some department chairmen) solicits recommendations from the candidate's chairman who, in turn, often consults the department's faculty (A. 217-218, 230-233). The committee then submits a recommendation to the administration (A. 218). At Yeshiva, an advisory council of the elected division chairmen makes recommendations concerning promotions to the President (A. 270, 267). Faculty members desiring promotions submit a written request to the council through their division chairman, who, in turn, "by good democratic procedures [tries] to convince the other members * * * that they should vote for such a promotion" (A. 267-268). There is also a university-wide grievance committee—the University Faculty Review Committee—which consists of eight tenured faculty members elected from the various schools. Its function is to review grievances pertaining to promotion (A. 48); its authority is limited to making recommendations to the dean or to the President (A. 1213-1216).

Full-time faculty members at the University are entitled to be considered for tenure after serving a certain number of years (A. 64). Vice-President Fishman testified that at the time when tenure is considered (A. 64-65):

> The deans will first call and come and we will discuss the question, and it will normally be decided in terms of the financial capacity of the university to carry another tenured commitment, and the impact on that department * * *.

He explained that, in addition to the particular school's concern for intra-departmental balance, he had to consider "the school wide balance of tenured versus untenured faculty" and "the whole fiscal side of * * * university planning" (A. 65).[13] Fishman also stated that, while he attempts to reach agreement with the deans in making tenure decisions and generally succeeds in doing so, he has authority to deny tenure in the absence of agreement (*ibid.*).

[13] Input from the faculty regarding tenure decisions varies among the schools. At Ferkauf, department members evaluate candidates for tenure and communicate their written findings through the chairman to the dean, who convenes a council of all tenured faculty members (A. 629-630). A committee of that council screens the department's evaluations and makes a recommendation to the full council, which votes by secret ballot and transmits its recommendation to the dean, who may veto it (A. 632-633, 667). Similarly, at Belfer, tenure recommendations are made by the entire department and are referred to the dean for ultimate decision by the President (A. 419). At Stern, the dean makes his own recommendation but also solicits one from the candidate's department chairman; both recommendations are sent to the President, who makes an independent evaluation and decision (A. 230-231).

Faculty input on matters of university-wide policy is secured through the academic councils—the Council of Undergraduate Schools and the Council of Graduate Schools—which advise the President. These bodies consist of student and faculty representatives elected from their constituent divisions, and appointed University officers (A. 42-44). Their mission is "to enable * * * faculty and students and university administrators * * * to be concerned with the problems that they all face together * * * [and which] arise anywhere in the university" (A. 44-45). The Faculty Handbook describes the duties of the Councils as "the initiation of programs among the various divisions to develop a feeling of University fellowship; achievement of academic excellence; coordination and cooperation among the divisions" (A. 1188).[14]

The faculty's input on questions of university-wide policy is exemplified by the University's consideration of changes in tuition levels. As noted by Vice-President Sokol, the administration makes its final decision on tuition changes after conducting an investigation (A. 140):

> Periodically at my direction or at his own initiative, the university director of finances, analyzes the tuition structure and compares it

[14] In the fall of 1974, the Council of Graduate Schools and the Council of Undergraduate Schools met together as a "committee on academic priorities and resources allocation." This committee, which was chaired by the Vice-President for Business Affairs, met twice but took no action (A. 60, 120-121, 332-333, 329).

> with those tuition structures of other universities and meets with the dean of the school and submits a joint recommendation as to whether the charge should be maintained or revised in some way.
>
> * * * * *
>
> That recommendation is made to me. I in turn submit that recommendation to the university executive council which either recommends it, modifies it and then it is submitted to the president for his approval with my recommendation.

Faculty views can influence the tuition recommendation. For example, the objection of a department chairman that a tuition increase would cause a decline in enrollment due to "the competitive nature of the program" was forwarded by the dean to Vice-President Sokol, who decided against the tuition increase (A. 413 414). Faculty opinion as to the proper amount of a proposed tuition increase also has influenced a dean's recommendation to Sokol (A. 505).

The faculty members at various schools and divisions in the University exercise considerable discretion in determining their own curriculum, grading system, admissions and matriculation standards, and course schedules (A. 189-197, 203-205, 246, 293-294, 308). At several schools, the faculty meets periodically to review the curriculum, recommend changes to the dean, and allocate course offerings (A. 189-190, 250-251, 345-347, 348, 314-315, 411-412, 504). Budgetary control, however, is centralized in the Uni-

versity administration (A. 121-142, 545-547).[15] Vice-President Fishman noted that "budgetarily [the dean] doesn't have the same significant role as he would programmatically" (A. 94, 99-100). Decisions about the academic load a student may carry are made jointly by the school and the Registrar (A. 611).

Faculty members in each school meet formally and informally to discuss and pass resolutions on matters of professional and institutional concern (A. 182-183, 247-249, 308-309, 311, 357-358, 402-403). At Stern, Yeshiva, Belfer, and Ferkauf, the faculty meets four times each year pursuant to written bylaws and/or a constitution approved by the President. (A. 183, 288-289, 400-401, 597). At other schools, the faculty meets when convened by the dean or director. Faculty meetings gen-

[15] A faculty committee at the Belfer School unsuccessfully protested the failure of the administration to provide additional financial support for its chemistry department—a failure that the faculty believed was the cause of the department's loss of state accreditation (A. 721-725, 1469-1470). That loss of accreditation stripped Belfer of its right to grant doctorate degrees in chemistry, thus resulting, according to Professor Ralph Behrends of Belfer, in a "loss in prestige, and loss in standing in the academic community in general, as well as in the field of chemistry * * * [P]eople take it as a reflection upon the chemists who are in the department" (A. 725). The administration, however, believed that "the loss [of accreditation] had occurred because [the chemistry] department was too small or because it didn't include the undergraduate chemistry department in one massive university-wide chemistry department" (A. 723). Accordingly, it decided to unify the various chemistry departments at Yeshiva, and, at the time of the Board hearing, was in the process of doing so (A. 397).

erally are chaired by the dean or director (A. 247, 311-312).

Most schools have faculty and faculty-student committees concerned with curriculum, promotions, admissions, and grading practices (A. 51, 206-207, 250-251, 255-256, 264-265).[16] Faculty welfare committees at most schools negotiate with the University administration on behalf of the full-time faculty concerning increases in the salary scale and other items of employment (A. 134, 163, 220, 233-235, 309-310, 482, 484-485, 540-544, 674-676, 731-732, 734-735). Thus, the University's decision in 1974 to give faculty members at the highest pay level a 5% raise was discussed in advance with the welfare committee (A. 136-137).

2. Based on the foregoing facts, the Board found the full-time faculty members at the University to be an appropriate bargaining unit, and directed an election in that unit (Pet. App. 63a-79a).[17] In so doing, the Board rejected the University's contention that "no faculty bargaining unit can be appropriate because all faculty members—by virtue of their group participation in faculty governance—are supervisory or managerial and are, thereby, not employees within

[16] No one contended before the Board or the court of appeals that the faculty is responsible for routine matters of University administration such as procurement of equipment and supplies, building and grounds construction and upkeep, or provision and maintenance of housing and food services.

[17] The bargaining unit embraces all full-time faculty members, including department chairmen, but excluding deans, acting deans, directors, and all other administrative, supervisory, or support personnel (Pet. App. 79a).

the meaning of the Act" (*id.* at 67a). The Board concluded that the "role and authority of the faculty herein with respect to hiring, promotion, salary increases, the granting of tenure, and other areas of governance are not significantly different" from what they were in prior cases in which university faculty members were found to be employees (*id.* at 68a).[18] The Board explained (*ibid.*; footnote omitted):

> At Yeshiva University, faculty participation in collegial decision making is on a collective rather than individual basis, it is exercised in the faculty's own interest rather than "in the interest of the employer," and final authority rests with the board of trustees. As in the earlier decisions, we find that the faculty members are professional employees under the Act who are entitled to vote for or against collective-bargaining representation.

The Union won the election "by a substantial margin" and was certified by the Board (Pet. App. 4a). The University refused to bargain, contesting the validity of the certification. The Board, upon charges filed by the Union, found that the University had violated Section 8(a)(5) and (1) of the Act, 29 U.S.C. 158(a)(5) and (1), and issued a bargaining order (Pet. App. 45a-60a).

---

[18] See *C. W. Post Center of Long Island University*, 189 N.L.R.B. 904 (1971); *Fordham University*, 193 N.L.R.B. 134 (1971); *Adelphi University*, 195 N.L.R.B. 639 (1972); *New York University*, 205 N.L.R.B. 4 (1973); *University of Miami*, 213 N.L.R.B. 634 (1974); *Northeastern University*, 218 N.L.R.B. 247 (1975).

3. The court of appeals denied enforcement of the Board's order, concluding that "the full-time faculty has managerial status" (Pet. App. 42a). The court agreed with the Board that the faculty members are professional employees under Section 2(12) of the Act, 29 U.S.C. 152(12), and that their "attributes of professionalism" do not "characterize them as managerial or supervisory" (Pet. App. 26a). However, the court concluded (*id.* at 27a):

> [T]he issue as we perceive it in this case involves not simply the professor's exercise of discretion in conducting the courses he is employed to teach. Rather, the issue here is the extensive control of Yeshiva's faculty over what courses are taught in the institution, who teaches them, the number of teaching hours required of the faculty, and the rank, salary, and tenure status of other faculty members. We are further concerned by the crucial role of the full-time faculty in determining other central policies of the institution including, *inter alia*, the curriculum, admissions and graduation requirements, tuition, and in one instance, even the situs of a school. When faculty members have such power—as the board indicates they do at Yeshiva—they no longer are simply exercising individual professional expertise. They are, in effect, substantially and pervasively operating the enterprise.

The court attached no significance to the fact that the faculty members exercised their authority collectively rather than individually, reasoning that they could be "managerial employees" even though they exercised authority as a group (*id.* at 28a-32a). The court also concluded that the existence of the Board

of Trustees with ultimate authority did not prevent the faculty members from having managerial or supervisory status, pointing out that business corporations have boards of directors with ultimate authority as well as numerous managerial and supervisory employees (*id.* at 37a-39a). Finally, the court rejected the Board's contention that the faculty exercised their authority on their own behalf and not that of the University. The court reasoned that, "even assuming that the faculty's determinations on personnel, curriculum, admissions, grading, graduation requirements and other policy issues were motivated by the faculty's own best interests, the fact that the administration and Board of Trustees of Yeshiva so rarely interfered in the faculty decisions indicates that the interests of the faculty and of the University were almost always coextensive" (*id.* at 33a).

SUMMARY OF ARGUMENT

1. The holding of the court of appeals that every full-time faculty member at Yeshiva University is a "supervisor" or "manager" conflicts with established definitions of those terms. Supervisors are defined by statute as persons who exercise authority over employees "in the interest of the employer" (Section 2(11) of the Act, 29 U.S.C. 152(11)). Congress conceived of supervisors as those persons "traditionally regarded as part of management" (S. Rep. No. 105, 80th Cong., 1st Sess. 3-5 (1947)), as opposed to rank and file employees. Similarly, "managers" are defined as " 'executives who formulate and effectuate management policies by expressing and making

operative the decisions of their employer' " (*NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 286 (1974)). Like supervisors, managers are recognized by their alliance with management, as opposed to the rank and file.

These definitions do not apply to faculty members —whose services constitute the employer's "product." When making recommendations to the University administration concerning the appointment, pay, and promotion of other faculty members, and when participating in university governance, faculty members exercise independent professional judgment. They are not expected to, and do not, serve as "representatives of management" in making recommendations or offering advice to the administration. Faculty members express their own views, not those of their employer, when participating in university affairs. Unlike supervisors or managers who represent the employer in its efforts to direct and develop work programs for rank and file employees, faculty members themselves make up the rank and file. Their job is to produce the educational "product," not to oversee other employees or develop policies as agents of the administration.

In light of these considerations, the Board has consistently held that rank and file faculty members are employees with rights under the Act, rather than supervisors or managers. See, *e.g.*, *Adelphi University*, 195 N.L.R.B. 639, 648 (1972) (faculty members do not serve "management's interests in making their decisions, nor are they advised that they are management's representatives in making them");

University of Miami, 213 N.L.R.B. 634 (1974) ("faculty participation in collegial decision-making * * * is exercised in the faculty's own interest rather than 'in the interest of the employer' "). The Board's interpretation is a reasonable one, confining the supervisory and managerial exclusions to those categories of university personnel (such as deans, acting deans, and directors) who are truly "management people," representing the administration in its dealings with employees. The Board's interpretation agrees with the congressional purpose to afford statutory protection to a broad category of "professional employees" (Section 2(12) of the Act, 29 U.S.C. 152 (12)), even those who exercise incidental supervisory authority over other professionals (S. Rep. No. 93-766, 93d Cong., 2d Sess. 6 (1974)). As this Court has noted, the Board enjoys wide latitude in determining which categories of persons are supervisors or managers (*Marine Engineers Beneficial Ass'n* v. *Interlake Steamship Co.*, 370 U.S. 173, 179 & n.6 (1962); see also *NLRB* v. *Bell Aerospace Co.*, *supra*, 416 U.S. at 290 n.19). The Board's interpretation of the Act should be sustained where, as here, it is rational and consistent with the purposes of the Act. *Beth Israel Hospital* v. *NLRB*, 437 U.S. 483, 501 (1978).

2. In this case, substantial evidence supports the Board's finding that faculty members at Yeshiva act in their own interest, rather than the interest of management, and that their role is essentially the same as that of faculty members at other universities (Pet. App. 68a). Mere involvement by the faculty in university decision-making, including decision-making affecting the hiring, salary, and promotion of one another, does not establish that the faculty is aligned in interest with management. To the contrary, these are subjects in which the faculty, as a collective body of professional employees, has a strong interest of its own. Nor does the fact that the administration often agrees with faculty proposals suggest that the interests of faculty and administration are undivided. As in the case of most employment relationships, broad areas of consensus exist at Yeshiva. Through the process of discussion, negotiation, and compromise, disagreement between faculty and administration is reduced to a minimum. But success in accommodating interests does not indicate that interests are identical, or that negotiation is unnecessary to mediate differences that arise.

The facts in this case demonstrate that the faculty has separate concerns from management. The faculty's recommendations reflect its views of what is professionally desirable for particular departments or schools. An over-arching administration, determining policy on the basis of overall needs of the University, has sometimes disagreed with the faculty concerning departmental needs and organization. It has refused to reconsider mandatory retirement proposals, frozen salary levels, and suspended sabbatical leaves. In sum, while the administration and the faculty have common interests in the success of the educational enterprise, their interests also diverge

significantly due to their differing perspectives and functions in the University. The Board's finding that the faculty and University have the separate interests of employees and employer is supported by substantial evidence and should be sustained. *Beth Israel Hospital* v. *NLRB*, *supra*, 437 U.S. at 501; *American Broadcasting Cos.* v. *Writers Guild*, 437 U.S. 411, 431-433 (1978).

ARGUMENT

THE BOARD PROPERLY CONCLUDED THAT FULL-TIME FACULTY MEMBERS AT YESHIVA ARE PROFESSIONAL EMPLOYEES ENTITLED TO THE PROTECTIONS OF THE NATIONAL LABOR RELATIONS ACT

A. Although Supervisors And Managers Are Excluded From The Coverage Of The Act, The Act Protects Professional Employees

The decision of the court of appeals that faculty members are supervisors or managers, rather than professional employees entitled to the protections of the Act, results in the anomaly that no members of the faculty, except part-time teachers with limited involvement in University affairs, are deemed to be employees of the University. The court's interpretation effectively converts all rank and file faculty members into managers or supervisors with no substantial body of employees to oversee. That Congress did not intend such a result is apparent upon examining the meaning of the terms "supervisor," "manager," and "professional employee."

1. Section 2(3) of the Act, 29 U.S.C. 152(3), broadly extends statutory coverage to "any employee," unless a statutory exclusion applies. In the Taft-Hartley amendments of 1947, Congress excluded from the coverage of the Act "any individual employed as a supervisor." [19] Congress excluded supervisors in response to this Court's decision in *Packard Motor Car Co.* v. *NLRB*, 330 U.S. 485 (1947), which held that "foremen" were employees with rights under the Act. The Taft-Hartley amendments reflected Congress' judgment that supervisors, such as foremen, were in a category separate from rank and file employees, and that management was entitled to the undivided loyalty of "supervisory personnel, traditionally regarded as part of management." S. Rep. No. 105, 80th Cong., 1st Sess. 3 (1947). Congress expressed concern that if supervisors could become members of labor organizations affiliated with organizations representing the rank and file, conflicts of interest would interfere with the ability of supervisors to control and discipline employees in the interest of the employer. *Id.* at 4-5; H.R. Rep. No. 245, 80th Cong., 1st Sess. 13-17 (1947). The House

---

[19] Section 2(11) of the Act, 29 U.S.C. 152(11), defines the term "supervisor" as

> [A]ny individual having authority, *in the interest of the employer*, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action * * *. [Emphasis supplied.]

Report also emphasized the distinction between supervisors and rank and file employees, adding that the unionization of supervisors was (*id.* at 14):

> * * * inconsistent with our policy to protect the rights of employers; they, as well as workers, are entitled to loyal representatives in the plants, but when the foremen unionize, * * * they are subject to influence and control by the rank and file union, and, instead of their bossing the rank and file, the rank and file bosses them.

As summarized by this Court, Congress' purpose in excluding supervisors "was to redress a perceived imbalance in labor-management relationships that was found to arise from putting supervisors in the position of serving two masters with opposed interests." *Beasley* v. *Food Fair of North Carolina, Inc.*, 416 U.S. 653, 661-662 (1974).[20]

The statutory definition of "supervisor" gives effect to the congressional purpose to exclude from the coverage of the Act those persons who are identified with management as opposed to the rank and file.

[20] By excluding supervisors whose interests were properly aligned with those of management, Congress reaffirmed the statutory purpose identified by the dissenting Justices in *Packard Motor Car Co.* v. *NLRB*, *supra*, 330 U.S. at 499-500: "Congress was intent on protecting the right of free association—the right to bargain collectively—by the great mass of workers, not by those who were in authority over them and enforcing oppressive industrial policies. * * * I have used the terms foremen and supervisory employees synonymously. But it is not the label which is important; it is whether the employees in question represent or act for management on labor policy matters."

Section 2(11) of the Act defines supervisors as those persons empowered to exercise specified authority over other workers "in the interest of the employer." It is essential to the definition that the mere exercise of authority is not enough. Congress did not deprive employees of statutory protection on that basis alone. The literal terms of the statute require that the authority be wielded on behalf of and in the interest of management. See, *e.g.*, *Stop & Shop Companies, Inc.* v. *NLRB*, 548 F.2d 17, 19 (1st Cir. 1977); *International Union of United Brewery Workers* v. *NLRB*, 298 F.2d 297, 303-304 (D.C. Cir. 1961), cert. denied, 369 U.S. 843 (1962); *NLRB* v. *Security Guard Service, Inc.*, 384 F.2d 143, 147-148 (5th Cir. 1967); *International Ladies' Garment Workers' Union* v. *NLRB*, 339 F.2d 116, 121 (2d Cir. 1964); *Jas. H. Matthews & Co.* v. *NLRB*, 354 F.2d 432, 435 (8th Cir. 1965).[21]

2. The Act contains no definition of managerial employees, nor does it expressly exclude them from the definition of employee. However, in *NLRB* v.

[21] Congress had no intention to allow the exclusion of "supervisors" to nullify the general grant of protection to "employees." As noted in the Senate Report, "[i]n framing this definition the committee exercised great care, desiring that the employees herein excluded from the coverage of the act be truly supervisory." S. Rep. No. 105, *supra*, at 19; see also H.R. Conf. Rep. No. 510, 80th Cong., 1st Sess. 35 (1947). Supervisors were viewed by Congress as distinguishable from ordinary employees. The House report noted that "Supervisors are management people" (H.R. Rep. No. 245, *supra*, at 16), and described the supervisory employee as "the boss" (*id.* at 13).

Bell Aerospace Co., 416 U.S. 267, 286-287 (1974), this Court concluded that, as a corollary of the exclusion of supervisory personnel, Congress necessarily intended to exclude "managerial employees"—defined as those who " 'formulate and effectuate management policies by expressing and making operative the decisions of their employer.' " *Id.* at 288 (quoting *Palace Laundry Dry Cleaning*, 75 N.L.R.B. 320, 323 n.4 (1947)). If the prototype of the supervisor is the "foreman," the prototype of the managerial employee is the "executive," implementing company policy. 416 U.S. at 283-285. But, as in the case of the supervisor, the touchstone for managerial status is a close identification and alliance with management, as opposed to the rank and file. See *id.* at 286-287. This Court's decision in *Bell Aerospace* expressly noted the rationale for exclusion of managerial employees as summarized in *Retail Clerks International Ass'n* v. *NLRB*, 366 F.2d 642, 645 (D.C. Cir. 1966) (Burger, J.), cert. denied, 386 U.S. 1017 (1967)—that "Congress intended to exclude from the protection of the Act those who comprised a part of 'management' or were allied with it on the theory that they were the one[s] from whom the workers needed protection." 416 U.S. at 288-289 n.16. See also *General Dynamics Corp.*, 213 N.L.R.B. 851, 857 (1974): "managerial status is not conferred upon rank-and-file workers, * * * but rather is reserved for those in executive-type positions, those who are closely aligned with management as true representatives of management."

Accord, *Bell Aerospace, A Division of Textron, Inc.*, 219 N.L.R.B. 384, 385-386 (1975).

3. While Congress has expressly excluded supervisors from the coverage of the Act, and implicitly excluded managerial personnel, it has expressly indicated that the statute's protection of "employees" extends to "professional employees." [22] This reflects Congress' awareness of the different role—and different responsibility—of professional, as opposed to managerial or supervisory, employees within the organizational structure. Professional employees are "not defined in terms of their authority 'to formulate, determine and effectuate management policies.' "

---

[22] Section 2(12)(a) of the Act, 29 U.S.C. 152(12)(a), defines the term "professional employee" to include:

> any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; * * *

Section 9(b)(1), 29 U.S.C. 159(b)(1), precludes the Board from placing professional employees in the same bargaining unit with employees who are not professional employees "unless a majority of such professional employees vote for inclusion in such unit."

NLRB v. *Bell Aerospace Co.*, *supra*, 416 U.S. at 285 n.13. Rather, the emphasis in defining such employees is on the exercise of independent professional judgment:

> The supervisory exemption is founded upon the assumption of bureaucratic managerial structures widely followed in industry. In a bureaucracy the legitimacy of a decision rests ultimately upon the decision-maker's position in the hierarchy. Moreover, the demands of scientific management militate toward standardization, routinization, and accountability to higher authority. This stands in sharp contrast to the assumption upon which the professions proceed. Lengthy, specialized education gives rise to expertise; it is by resort to professional judgment rather than to hierarchical authority that the legitimacy of a professional decision is to be tested. This in turn yields claims to autonomy in professional work * * *.

Finkin, *The Supervisory Status of Professional Employees*, 45 Fordham L. Rev. 805, 808 (1977). Moreover, the professional is expected to adhere loyally to the values of his profession, rather than espousing the policies of his organization. See P. Drucker, *Management: Tasks, Responsibilities, Practices* 394 (1974), pointing out that the "allegiance" of professional employees "is to their technical or professional skill, rather than to their organization." Drucker adds that "[t]he psychologist within a personnel department sees himself as a professional—that is, a member of the world of his academic specialty—

rather than as an executive of this or that company (or even as a faculty member of this or that university)." *Ibid.*

Because, however, professional employees frequently make judgments of great importance to management,[23] and sometimes provide substantial direction and guidance to colleagues in carrying out their professional responsibilities,[24] the line separating professional employees from managerial and supervisory employees is not always clear and bright.[25] The problem becomes especially complex when professional employees are vested with significant managerial or supervisory responsibility.[26] Congress has therefore

---

[23] See *Westinghouse Electric Corp.*, 113 N.L.R.B. 337, 339 (1955).

[24] See *Wurster, Bernardi & Emmons, Inc.*, 192 N.L.R.B. 1049, 1051 (1971); *Skidmore, Owings & Merrill*, 192 N.L.R.B. 920, 921 (1971); *Sonotone Corp.*, 90 N.L.R.B. 1236, 1239 (1950).

[25] Indeed, during the hearings on the Taft-Hartley amendments, management representatives argued for inclusion of professional employees in the supervisory exclusion, contending that they were part of management. *Amendments to the National Labor Relations Act: Hearings on H.R. 8, etc. Before the House Comm. on Education and Labor*, 80th Cong., 1st Sess. 1225 (1947); *Labor Relations Program: Hearings on S. 55 & S.J. Res. 22 Before the Senate Comm. on Labor and Public Welfare*, 80th Cong., 1st Sess. 694 (1947). See also Finkin, *supra*, 45 Fordham L. Rev. at 807-808.

[26] In those situations, professional employees may be excluded from the coverage of the Act. See, *e.g.*, *Presbyterian Medical Center*, 218 N.L.R.B. 1266, 1267-1269 (1975) (medical personnel); *General Dynamics Corp.*, 213 N.L.R.B. 851,

entrusted to the Board, in the first instance, the task of determining whether the employee in question is a professional employee covered by the Act or a supervisory or managerial employee subject to exclusion. See, generally, *Marine Engineers Beneficial Ass'n* v. *Interlake Steamship Co.*, 370 U.S. 173, 179 & n.6 (1962); *NLRB* v. *Bell Aerospace Co.*, *supra*, 416 U.S. at 290 n.19; *Trustees of Boston University* v. *NLRB*, 575 F.2d 301, 305 (1st Cir. 1978), petition for cert. pending, No. 78-67; *Stop & Shop Companies* v. *NLRB*, *supra*, 548 F.2d at 18; *Westinghouse Electric Corp.* v. *NLRB*, 424 F.2d 1151, 1156 (7th Cir. 1970).

4. As noted above, the basis for the managerial and supervisory exclusions from the Act is management's right to have its representatives accountable solely to it and not to have their loyalty divided. Accordingly, the standard used by the Board to determine whether professional employees are excluded from the protections of the Act is not whether they deal with matters of importance to management, but rather whether they function in a capacity in which they are expected to conform to management policies and are judged according to their effectiveness in carrying out those policies. Only in the latter case can it properly be said that professional employees are acting "in the interest of the employer" or are "aligned with management," rather than merely ex-

858-859 (1974) (engineers); *University of Chicago*, 205 N.L.R.B. 220, 221 (1973) (librarians), enforced, 506 F.2d 1402 (7th Cir. 1974).

ercising their independent professional judgment. As the Board explained in *General Dynamics Corp.*, *supra*, 213 N.L.R.B. at 857-858:

> [M]anagerial status * * * is reserved for * * * those who are closely aligned with management as true representatives of management. Work which is based on professional competence necessarily involves a consistent exercise of discretion and judgment, else professionalism would not be involved. Nevertheless, professional employees plainly are not the same as management employees either by definition or in authority, and managerial authority is not vested in professional employees merely by virtue of their professional status, or because work performed in that status may have a bearing on company direction. * * * A lawyer or a certified public accountant working for, or retained by, a company may well cause a change in company direction, or even policy, based on his professional advice alone, which, by itself, would not make him managerial.[27]

[27] Because managerial or supervisory authority is, by definition, authority exercised in the interest of management, professional employees acting in their own interest may supervise junior professionals without losing the protection of the Act. Congress has acknowledged that such supervision does not confer managerial or supervisory status. See H.R. Conf. Rep. No. 510, *supra*, at 36, pointing out that the definition of professional employee embraces both the professional and his "junior professional assistants." In enacting the 1974 health care amendments to the statute (Pub. L. No. 93-360, 88 Stat. 395), Congress reaffirmed this principle. See S. Rep. No. 93-766, 93d Cong., 2d Sess. 6 (1974):

[Footnote continued on page 34]

As we demonstrate below, the Board has properly applied these principles to college and university faculties in general,[28] and to the Yeshiva faculty in

---

[27] [Continued]

The Committee notes that the Board has carefully avoided applying the definition of "supervisor" to a health care professional who gives direction to other employees in the exercise of professional judgment, which direction is incidental to the professional's treatment of patients, and thus is not the exercise of supervisory authority in the interest of the employer.

The Committee expects the Board to continue evaluating the facts of each case in this manner when making its determinations.

[28] The University did not challenge the Board's statutory jurisdiction over private, nonprofit colleges before the Board or in the court below. Accordingly, that question is not presented in this case. See *Lawn* v. *United States*, 355 U.S. 339, 362 n.16 (1958); *Detroit Edison Co.* v. *NLRB*, No. 77-968 (Mar. 5, 1979), slip op. 9-10 n.10.

We note, in any event, that the Act's definition of "employer" contains no exception for nonprofit, private colleges and universities. And, while the Board in *Trustees of Columbia University*, 97 N.L.R.B. 424 (1951), indicated that it would not exercise jurisdiction over nonprofit, educational institutions, it expressly did so as a matter of discretion, affirming that the activities of the university did come within the Act and the Board's jurisdiction (*id.* at 425). Therefore, the decision in *Columbia University* "does not undermine the validity of the Board's [subsequent] determination in *Cornell University*, 183 N.L.R.B. 329 (1970), that changing conditions—particularly the increasing impact of such institutions on interstate commerce—now required a change in policy leading to the renewed exercise of Board jurisdiction." *NLRB* v. *Catholic Bishop of Chicago*, No. 77-752 (Mar. 21, 1979) (dissenting opinion of Brennan, J.), slip op. 6-7 n.6.

The Court's opinion in *Catholic Bishop*, *supra*, slip op. 14, refers to legislative history (S. Rep. No. 573, 74th Cong.,

particular.[29] As a general matter, faculty members at private colleges and universities fall within the

---

1st Sess. 7 (1935)) indicating that a dispute between "an employer and * * * a critical college professor" would not be a "labor dispute" under the Act because no "unfair labor practice affecting commerce" could result. The Senate Report describes a situation in which an individual professor voices criticism of an employer, and correctly notes that this would not constitute a labor dispute under the Act. A controversy between a faculty body and the college that employs them, in contrast, would give rise to a labor dispute within the meaning of the Act if the controversy had the potential to affect interstate commerce. When Congress amended the Act in 1974 to eliminate the exemption previously accorded to nonprofit hospitals, it noted and approved the Board's policy of asserting jurisdiction over other nonprofit institutions, including educational institutions. See H.R. Rep. No. 93-1051, 93d Cong., 2d Sess. 4 (1974); 120 Cong. Rec. 12938 (1974) (remarks of Sen. Williams). See also *NLRB* v. *Wentworth Institute*, *supra*, 515 F.2d at 553-555.

[29] The University did not contend before the Board or in the court below that First Amendment principles affected the application of the statute. In any event, the decision in the *Catholic Bishop* case, *supra*, would not preclude application of the Act even if that issue had been raised. The *Catholic Bishop* case dealt with the Board's jurisdiction over "church-operated" secondary schools. The decision rested on the premise that, since assertion of jurisdiction over church-operated secondary schools would pose "difficult and sensitive questions arising out of the guarantees of the First Amendment" (slip op. 17), it could not be assumed that Congress conferred such jurisdiction absent "a clear expression of Congress' intent" (*ibid.*). Here, in contrast (see note 3, *supra*), the University is not operated by a religious body. Moreover, the institution is a university, not a parochial secondary school. See generally, *Tilton* v. *Richardson*, 403 U.S. 672, 680-682 (1971) (plurality opinion); *Hunt* v. *McNair*, 413 U.S. 734, 743-746 (1973); *Roemer* v. *Board of Public Works*, 426 U.S. 736, 750-752, 759-762 (1976) (plurality opinion).

definition of professional employees, rather than supervisors or managerial personnel. The faculty members at Yeshiva do so as well.

B. Faculty Members Are Professional Employees Rather Than Managers Or Supervisors Because They Exercise Independent Professional Judgment When Participating In University Governance

1. *Faculty members exercise independent professional judgment and do not serve as agents or representatives of the university's management*

The facts in this case illustrate a system of university governance that is typical of the American university. That governance system conforms neither to the industrial model in which "authority is normally delegated from the top of the organizational pyramid in bits and pieces to individual managers and supervisors who in turn direct the work of the larger number of employees at the base of the pyramid" (*Adelphi University*, 195 N.L.R.B. 639, 648 (1972)), nor to the medieval model of true collegial decision-making in which complete power and authority are vested in a group of peers.[30] Rather, the uni-

[30] Western universities arose in the 11th and 12th centuries as guilds of teachers (or, in some cases, students), responsible only to themselves, with no administrative or other controlling body. N. Fehl, *The Idea of a University in East and West* 36-46 (1962); D. Knowles, *The Evolution of Medieval Thought* 153-171 (1962). In later years, universities were established and controlled by governmental or ecclesiastical authorities. O. Carmichael, *Universities: Commonwealth and American* 11, 14, 86-94 (1959). External control has existed in the United States since colonial times. J. Brubacher & W. Rudy, *Higher Education in Transition: A History of American Colleges and Universities, 1636-1968*, 4, 25-31 (1968). As noted in Carmichael, *supra*, at 92-93:

> In the United States the governing body is called a Board of Trustees, a Board of Regents, or a Board of Directors. The original board is usually provided for by the charter of the institution * * *.
>
> * * * * * *
>
> The Board of Trustees is legally the corporation in most institutions. In some, the corporation is a separate and much larger body which holds title to the property. It has complete control over the institution. All educational policies, though formulated by the administration and faculty, must be passed upon by it.

The ultimate authority of the trustees, delegated to managerial and supervisory personnel within the administration (including the President, Vice-Presidents and Deans) shows that the modern university departs significantly from the true collegial model in which ultimate authority rests with a peer group of scholars. See *Adelphi University*, *supra*, 195 N.L.R.B. at 648; *New York University*, *supra*, 205 N.L.R.B. at 5.

versity operates on the principle of "shared authority" through at least two authority systems built into its formal structure: "One is the *bureaucratic* network, with formal chains of command running from the trustees down to individual faculty members and students. * * * The other authority system is a *professional* network, for at all levels there are formal mechanisms for bringing the expertise of the faculty into the decision-making process." J. Baldridge, *Power and Conflict in the University* 114 (1971) (emphasis in original).

Within this system of shared authority, in which faculty members and the administration jointly participate, the faculty is expected to exercise independ-

ent professional judgment. See *Statement on Government of Colleges and Universities*, 52 A.A.U.P. Bull. 375 (1966) (hereinafter "*Statement on Government*")[31] and *Faculty Participation in Academic Governance* (1967) (hereinafter "*AAHE Report*"),[32] which elaborate the respective roles of faculty and administration within the university. The *Statement on Government* notes that faculty members are expected (and entitled) to exercise professional judgment with respect to "curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process" (*id.* at 378). The *Statement on Government* emphasizes that the faculty's participation rests upon the fact "that its judgment is central to general educational policy [and] scholars in a particular field or activity have the chief competence for judging the work of their colleagues * * *" (*ibid.*).[33] As pointed out by the *AAHE Report*, the value of the participation and advice of the faculty depends

[31] This Statement was formulated and approved by the American Association of University Professors, The American Council on Education, and the Association of Governing Boards of Universities and Colleges.

[32] This Report was prepared by a task force of the American Association for Higher Education, a department of the National Education Association.

[33] The *Statement on Government* adds, however, that "[b]udgets, manpower limitations, the time element, and the policies of other groups, bodies and agencies having jurisdiction over the institution may set limits to realization of faculty advice" (*ibid.*).

upon its independence and professional expertise: "the faculty should have wide discretion in the conduct of its professional activities. * * * The governance of institutions of higher education cannot adhere to traditional management concepts of superior-subordinate relationships. Instead, the system of governance should enhance the personal autonomy necessary for maximum intellectual productivity" (*id.* at 20).[34]

In sum, the participation of faculty members in university decision-making regarding faculty status, curriculum, and other matters of academic policy is not a means to implement or effectuate managerial policy. Rather, it is an expression of the faculty's independent professional judgment on subjects of direct importance to the faculty. See Finkin, *The NLRB in Higher Education*, 5 Tol. L. Rev. 608, 618 (1974) (footnotes omitted):

> [F]aculty members are not considered answerable to institutional management in their faculty governance functions. As Baldridge observed, faculty structures merely channel professional opinions on matters of intimate concern

[34] The *AAHE Report* also notes that "[i]f the administration enjoys an advantage derived from its broad perspective on the over-all operations, the faculty commands respect because of its special understanding of the fundamental activities of the institution—teaching and research" (*ibid.*). See also Mason, *College and University Government*, XIV Tulane Studies in Political Science 1 (1972): "Decision-making in the university must involve the teacher-researcher 'on the assembly line' because he chiefly knows intimately what the 'production' of the university is all about * * *."

to the teacher and researcher. "Accountability," as the critics use the term, would have an inhibiting effect on the free flow of opinion for it contemplates the exercise of authority over the faculty member depending on whether or not the administration agrees with the opinions offered. Conversely, faculty criticism of the administration is understood to constitute not a breach of loyalty to the employer but an exercise of academic freedom. In sum, there is no right of control [by the administration over the faculty] essential in a finding of responsibility to management.

2. ***Because faculty members exercise independent professional judgment in their own interest rather than that of management, the Board consistently has held that they are employees covered by the Act***

Since its original exercise of jurisdiction over nonprofit colleges in 1970 (see note 28, *supra*), the Board consistently has held that the involvement of the faculty in university governance does not make them supervisors or managers, even though that involvement touches upon many facets of university life, including the formulation of academic policy. The Board has based that conclusion principally on the fact that faculty members do not espouse "management's interests in making their decisions, nor are they advised that they are management's representatives in making them." *Adelphi University, supra*, 195 N.L.R.B. at 648.[35] See also *New York*

[35] The Board has also noted, in analyzing this question, that faculty members exercise their authority collectively,

University, 205 N.L.R.B. 4, 5 (1973), pointing out that "[t]he faculty is not in the position of management relative to these * * * decisions." Accord, *University of Miami*, 213 N.L.R.B. 634 (1974) ("faculty participation in collegial decision-making * * * is exercised in the faculty's own interest rather than 'in the interest of the employer' "); *Fairleigh Dickinson University*, 227 N.L.R.B. 239, 241 (1976) (faculty members "are not advised to advocate management's interests * * *, nor are they considered management's representatives").

Managerial and supervisory personnel are strictly accountable to management for faithful implementation of managerial policies in rendering their decisions. They are judged accordingly. See, *e.g.*, *NLRB* v. *Fullerton Publishing Co.*, 283 F.2d 545, 550 (9th Cir. 1960). Faculty members, in contrast, are judged by their employer based on the quality of their teaching and research, not on the compatability with administration policy of their recommendations or advice.[36] As summarized by Member Kennedy in

unlike traditional managerial and supervisory personnel who rarely act in large numbers, through councils or plebiscites. The Board has also pointed out that the faculty voice is advisory, and that decision-making authority rests in the administrative hierarchy, headed by the board of trustees. See Pet. App. 68a; *Adelphi University, supra*, 195 N.L.R.B. at 648.

[36] This essential distinction is illustrated by comparing the situation of deans and rank and file faculty members. The university, viewing its overall financial position, may inform its deans of the need for budgetary restraint within their departments. As agents of the administration, the deans are expected to attempt to implement that directive. Faculty

Northeastern University, 218 N.L.R.B. 247, 257 (1975) (concurring opinion; footnote omitted):

> [T]he influence which the faculty exercises in many areas of academic governance is insufficient to make them "managerial" employees. Such influence is not exercised "for management" or "in the interest of the employer," but rather is exercised in their own professional interest. The best evidence of this fact is that faculty members are generally not held accountable by or to the administration for their faculty governance functions. Faculty criticism of administration policies, for example, is viewed not as a breach of loyalty, but as an exercise in academic freedom. So, too, intervention by the university administration in faculty deliberations would most likely be considered an infringement upon academic freedoms. Conversely, university administrations rarely consider themselves bound by faculty recommendations.[37]

---

members, on the other hand, although aware of and perhaps sympathetic to administration policies of financial restraint, are free to base their recommendations and advice on their professional assessment of the needs of their departments.

[37] When faculty members, such as deans or department chairmen, exercise supervisory authority, they have been denied the Act's protections. See, *e.g.*, *C. W. Post Center of Long Island University*, 189 N.L.R.B. 904, 906 (1971); *Adelphi University*, *supra*, 195 N.L.R.B. at 642-643; *Syracuse University*, 204 N.L.R.B. 641, 642 (1973); *Fairleigh Dickinson University*, 205 N.L.R.B. 673, 675 (1973). Compare *Fordham University*, 193 N.L.R.B. 134, 138-139 (1971); *New York University*, 205 N.L.R.B. 4, 9 (1973); *Trustees of*

The Board's interpretation is a reasonable one. The concepts of "manager" and "supervisor" do not apply to ordinary members of the faculty. As noted on pages 25-29, *supra*, managerial and supervisory personnel are defined by their representation of management's interests, as opposed to the interests of the rank and file. Congress denied collective bargaining rights to such personnel to assure that they would remain effective agents of management. Congress viewed them as "management people" and "bosses," allied with the employer in its struggle with labor. Faculty members do not have these characteristics. They themselves make up the rank and file. Their services constitute the "product" of the educational institution; the rendering of those services is its production line. Faculty members have the interests of ordinary employees in obtaining pay raises and improving the terms and conditions of employment. They are expected to, and often do, disagree with the administration on university policies. Their role in the university, reinforced by traditions of academic

---

Boston University v. *NLRB*, 575 F.2d 301, 305-306 (1st Cir. 1978), petition for cert. pending, No. 78-67.

In the present case, the Board rejected the University's contention that members of its committee on academic priorities and resource allocation, its faculty review committee, its department chairmen, and two assistant deans, were managerial or supervisory employees (Pet. App. 69a-76a). The Board agreed with the University, however, that principal investigators of research and training grants were supervisors, and therefore excluded them from the bargaining unit (*id.* at 76a-78a). The bargaining unit also excludes deans, acting deans, and directors (*id.* at 79a).

freedom, requires that their views be independent. To the extent that they review the work of junior faculty members and advise the administration, that is an exercise of professional judgment, not an assertion of administrative policy. For these reasons, the Board consistently has determined that faculty members are professional employees, rather than supervisors or managers. Its interpretation is entitled to substantial deference. See *Marine Engineers Beneficial Ass'n* v. *Interlake Steamship Co.*, *supra*, 370 U.S. at 179 n.6; see also *Beth Israel Hospital* v. *NLRB*, 437 U.S. 483, 500-501 (1978); *American Broadcasting Cos.* v. *Writers Guild*, 437 U.S. 411, 431 (1978); *Ford Motor Co.* v. *NLRB*, No. 77-1806 (May 14, 1979), slip op. 7-8.

The appropriateness of deferring to the Board's interpretation is underscored by the fact that Congress, in 1974, expanded the Board's jurisdiction over nonprofit institutions and acknowledged the Board's assertion of jurisdiction over educational institutions (see note 28, *supra*). Prior to that time, the Board repeatedly had expressed the view that faculty members were professional employees with rights under the Act, rather than managerial or supervisory employees.[38] The Board's "construction of

[38] See *C. W. Post Center of Long Island University*, 189 N.L.R.B. 904, 905 (1971); *Fordham University*, 193 N.L.R.B. 134, 135 (1971); *Manhattan College*, 195 N.L.R.B. 65, 66 (1972); *Adelphi University*, 195 N.L.R.B. 639, 648 (1972); *New York University*, 205 N.L.R.B. 4, 5 (1973).

its statutory mandate is entitled to great respect, 'especially when Congress has refused to alter the administrative construction.'" *Board of Governors of Federal Reserve System* v. *First Lincolnwood Corp.*, No. 77-832 (Dec. 11, 1978), slip op. 13. Congressional acquiescence is properly inferred where Congress has "revisited the Act and left the practice untouched." *Saxbe* v. *Bustos*, 419 U.S. 65, 74 (1974).

3. *Collective bargaining by faculty members is similar to collective bargaining by other professional employees and does not undermine principles of shared authority within the university*

Collective bargaining by faculty members is similar to collective bargaining by other professional groups. Congress contemplated that a wide variety of professional employees would be subject to the Act's protections, including medical personnel, lawyers, accountants, engineers, scientists, chemists, and architects, together with their junior professional assistants. H.R. Conf. Rep. No. 510, *supra*, at 36; S. Rep. No. 105, *supra*, at 19. The purpose of extending the coverage of the Act to professional and nonprofessional employees is the same. Congress intended to promote the peaceful settlement of disputes having the potential to obstruct the free flow of commerce "by subjecting labor-management controversies to the mediatory influence of negotiation." *Fibreboard Paper Products Corp.* v. *NLRB*, 379 U.S. 203, 211 (1964). On campus, collective bargaining channels into orderly dispute-resolving procedures those controversies between faculty and administration con-

cerning the terms and conditions of employment, the role of the faculty in university affairs, and the faculty's right to representation by a union or other bargaining agent of its choosing.[39]

This statutory purpose is consistent with the needs of university governance. As noted by the Report of the Carnegie Commission on Higher Education, *Governance of Higher Education* 51 (1973):

> We may be involved in a long-term period of greater social conflict in society and greater tension on campus. If so, it may be better to institutionalize this conflict through collective bargaining than to have it manifest itself with less restraint. Collective bargaining does provide agreed-upon rules of behavior, contractual understandings, and mechanisms for dispute settlement and grievance handling that help to manage conflict. * * * Collective bargaining, thus, is one aspect of the rule of law, if and when a rule of law is required.

In light of these considerations, the Carnegie Commission concluded "that faculty members should have the right to organize and to bargain collectively, if they so desire * * *" (*id.* at 43).[40]

[39] As of May 1978, faculty members had selected collective bargaining representatives at 77 private colleges and universities, and had rejected such representation at 41. *Chronicle of Higher Education* 8 (June 26, 1978).

[40] The Commission took no position on the question whether individual faculties should pursue that option, stating that "this is a matter for faculty decision" (*ibid.*). The Act, of course, preserves that option for employees included in the collective bargaining unit. In the present case, the faculty exercised its option in favor of collective bargaining.

Collective bargaining on campus also is consistent with traditional concepts of shared authority.[41] As noted by the *AAHE Report*, collective bargaining by faculty members itself "constitutes a form of shared authority." *Id.* at 15. While the Report expresses a preference for faculty senates as a mechanism for asserting the faculty's interests, it concludes that conventional collective bargaining on behalf of the faculty is not incompatible with the functioning of institutions of higher education (*id.* at 63-65).

Experience has confirmed that collective bargaining serves to implement traditional concepts of shared authority in the university. The Appendix to the Brief Amicus Curiae of the American Association of University Professors, filed in support of the Board's petition for certiorari in this case, summarizes the provisions of 20 collective bargaining agreements negotiated by faculty unions at private institutions of higher education. Those agreements generally provide for faculty involvement in decisions relating to the appointment, reappointment, promotion and tenure of their colleagues. Many agreements also establish procedures for faculty participation in decisions relating to matters of educational policy, such as curriculum, admission and degree requirements. Thus, collective bargaining has not altered the subject matter of shared authority or changed the

[41] Compare Finkin, *The NLRB in Higher Education*, 5 Tol. L. Rev. 608 (1974), with Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication*, 21 U.C.L.A. L. Rev. 63 (1973).

nature of faculty and administrative interchange. Rather, collective bargaining has introduced the mediatory influence of formal negotiation, and, in the process, lessened the likelihood of disruptive labor disputes.

C. Substantial Evidence Supports The Board's Finding That The Faculty's Role At Yeshiva Is Essentially The Same As That Of Faculties At Other Universities And That The Faculty Acts For Itself Rather Than Management

The court of appeals acknowledged that the University's full-time faculty members are professional employees within the meaning of Section 2(12) of the Act and that certain of their attributes—the faculty member's "authority to determine the content of his course, the method he employs in teaching it, and the evaluation of his students' academic performance"—do not confer supervisory or managerial status (Pet. App. 26a). The court concluded, however, that because the faculty members also play a role in determining curriculum, admission and graduation requirements, and the rank, salary, and tenure of one another, "they no longer are simply exercising individual professional expertise," but are "substantially and pervasively operating the enterprise" (*id.* at 27a). Although the court's opinion suggests that this range of shared authority may be unusual (see *id.* at 19a n.9, 27a, 33a-34a, 36a), the same pattern appears throughout the Board's prior cases in this area, as the Board specifically found (Pet. App. 68a). See, *e.g.*, *C. W. Post Center of Long*

Island University, supra, 189 N.L.R.B. at 905; *Northeastern University, supra,* 218 N.L.R.B. at 250; *Fordham University, supra,* 193 N.L.R.B. at 135.

Here, as in the Board's prior cases, mere involvement by the faculty in the decision-making process affecting tenure, promotion, salary, and academic standards is not an indication that the faculty is aligned in interest with management. To the contrary, these are subjects in which faculty-employees have a direct interest of their own because they may concern the terms and conditions of their employment.[42] The Act requires management to negotiate with its employees about subjects that affect their terms and conditions of employment (*Fibreboard Paper Products Corp.* v. *NLRB, supra*) and it may not logically be inferred that employees are representing the interests of management when they attempt to influence management's decision on such subjects. See Finkin, *supra,* 5 Tol. L. Rev. at 616 ("it is not extraordinary for employees to seek to exert influence over matters embedded in an employment relationship * * *, or that management would be responsive to their strongly held desires"). If effective appeals by employees concerning the terms and conditions of employment could convert them into "managers" or "supervisors," then "the Act would be applicable solely to

---

[42] The quality and range of course offerings and of other faculty members in the same and related departments obviously affect the program offerings in which a faculty member can participate, the member's professional reputation, and the quality of students to be attracted.

the most powerless and uninfluential employees." *Id.* at 617. In sum, the faculty's assertion of its views on these subjects is a manifestation of its pursuit of its own professional interests, not the interests of the employer (even though the latter interests may often coincide with the former).[43]

Nor was the court below warranted in viewing this as a special case simply because the administration often accepts the faculty's recommendations (Pet. App. 33a-36a). As noted on pages 12-17, *supra*, the agreement between the administration and the faculty is the result of a continuous process of discussion, informal negotiation, and compromise. The persuasiveness of the faculty, and the respect of the administration for the views of this essential portion of the University's personnel, are no grounds for con-

[43] The result of the court of appeals' ruling here is that only part-time teachers at Yeshiva—and other universities that respond to the views of their faculties—are subject to protection under the Act. We submit that full-time faculty members, whose livelihood depends on their employment with the university and who have a greater stake in its affairs, should be entitled to no less protection. The court's holding that all full-time faculty members are managers or supervisors leaves a faculty body made up of many supervisors and few employees. "Such a disproportionate ratio" is a "significant factor" weighing heavily against the finding of supervisory or managerial status. See, *e.g.*, *Quick Shop Markets, Inc.*, 168 N.L.R.B. 180, 182 (1967); *Hills Department Store*, 155 N.L.R.B. 1163, 1170 (1965); *Montgomery Ward & Co.*, 93 N.L.R.B. 640, 643 (1951) ("to find these individuals to be supervisors would create the highly improbable supervisory ratio of approximately one supervisor for each employee").

cluding that the faculty has acted as management's representative.[44]

The suggestion of the court of appeals that the faculty at Yeshiva exercises an unusual degree of influence over University affairs is based on the court's failure to view the faculty's role in the context of shared authority, as discussed on pages 36-40, *supra*. Yeshiva, like the other universities considered in the Board's prior decisions, possesses a pervasive administrative system, presided over by a Board of Trustees and managed by a President, three Vice-Presidents, several deans, and various subordinate administrative personnel. By focusing on the influential role of the faculty within the context of each separate school of the University (see Pet. App. 8a-17a), the court failed to take cognizance of the overarching network of administrative authority which effectively implements university policy and reconciles that policy with faculty advice and demands.

Thus, while the faculty at the University has a significant voice in determining curriculum, admission and graduation requirements, and the rank, salary, and tenure of one another, the record shows that faculty proposals are reviewed by the Vice-Presidents for Academic and Business Affairs as well as the President, who, in addition to making their own appraisals, render their final decisions on the basis of university-wide, institutional considerations

[44] Due to the "mobility of first rate faculty," no college administration can afford to turn a deaf ear to faculty requests. Finkin, *supra*, 5 Tol. L. Rev. at 617.

and policies. While the ongoing process of discussion between the Vice-Presidents and the deans enables them to avoid situations in which the administration must "veto" faculty proposals, the Vice-Presidents do have the power, and are fully prepared, to overrule proposals that conflict with institutional requirements. Moreover, the standards governing faculty appointments and grants of tenure are prescribed in the Faculty Handbook, the content of which is determined by the Executive Council. Likewise, the budget, which limits the range of faculty requests that can be satisfied, is formulated by the administration, not the faculty. Indeed, the only formal bodies on which faculty members serve that consider university-wide issues are the Undergraduate and Graduate Councils, including both students and faculty. These are nothing more than advisory bodies. See pages 7-16, *supra*.

As in the case of other universities in which faculty members have sought certification of a bargaining representative, the sometimes divergent interests of faculty and administration appear of record (see Pet. App. 68a).[45] Thus, the Yeshiva faculty formed

[45] In no institution, of course, are the interests of employer and employee totally divergent. The president of a business corporation and the worker on its assembly line have a community of interest in profitable operations, stable employment, avoidance of strikes, safe working conditions, the control of pollution, etc. Interests diverge, however, when salary raises are demanded, or when requests for improved working conditions entail significant costs. This is true on the campus, as well as in the industrial plant.

"welfare committees" to negotiate with the University concerning the terms and conditions of their employment prior to the filing of the Union's representation petition. The faculty's strong vote for the Union to serve as its representative in future negotiations with the administration also shows that the faculty perceives its interests as being, at least in part, distinct from those of management and as requiring an independent spokesman. The administration's action in unilaterally freezing faculty salaries and suspending sabbatical leaves likewise exemplifies a divergence of interests. So does the failure of the administration to reconsider the University's mandatory retirement policy, despite the requests of the faculty. A final example of divergent interests is the disagreement between the faculty at the Belfer Graduate School and the administration regarding funding for the chemistry department. See pages 7-9, 16-17, 18, *supra*.

In sum, we submit that the record supports the Board's finding (Pet. App. 68a) that "the role and authority of the faculty herein with respect to * * * areas of governance are not significantly different from what they were in [prior] cases" involving faculty bargaining units at universities and colleges. Since the Board's determination of the status of the faculty was based on a reasonable interpretation of the statute, and has a substantial basis in the record, its determination should be sustained. See Section 10(e) of the Act, 29 U.S.C. 160(e); *Beth Israel Hospital* v. *NLRB*, *supra*, 437 U.S. at 501; *Ameri-*

can Broadcasting Cos. v. *Writers Guild, supra,* 437 U.S. at 431-433; *Bayside Enterprises, Inc.* v. *NLRB,* 429 U.S. 298, 303-304 (1977).

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

LAWRENCE G. WALLACE
Deputy Solicitor General

STEPHEN M. SHAPIRO
Assistant to the Solicitor General

JOHN S. IRVING
General Counsel

JOHN E. HIGGINS, JR.
Deputy General Counsel

ROBERT E. ALLEN
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

LINDA SHER
Assistant General Counsel

DAVID S. FISHBACK
Attorney
National Labor Relations Board

MAY 1979

☆ U. S. GOVERNMENT PRINTING OFFICE: 1979 292866 387

Supreme Court, U. S.
FILED
JUL 14 1979
MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

v.

YESHIVA UNIVERSITY.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR YESHIVA UNIVERSITY

MARVIN E. FRANKEL
SAUL G. KRAMER
MARK L. GOLDSTEIN
PROSKAUER ROSE GOETZ &
MENDELSOHN
300 Park Avenue
New York, New York 10022
Attorneys for Respondent
Yeshiva University

Of Counsel:
SIDNEY SCHUTZ
55 Fifth Avenue
New York, New York 10003

GERALD A. BODNER
1300 Morris Park Avenue
Bronx, New York 10461

TABLE OF CONTENTS

	Page
Question Presented	1
Statement	2
A. The Facts About Yeshiva	2
1. The University	2
2. Stern College for Women	5
3. Yeshiva College	8
4. Erna Michael College	12
5. Teachers Institute for Women	14
6. James Striar School of General Jewish Studies	15
7. Yeshiva Program	16
8. Belfer Graduate School of Science	16
9. Ferkauf Graduate School of Humanities and Social Sciences	18
10. Wurzweiler School of Social Work	20
11. Bernard Revel Graduate School	22
B. The Board's Proceedings and Decisions	23
C. The Decision Below	24
Summary of Argument	26
Argument	31
Introduction	31
I. Under Familiar Definitions, Generally Applied, Yeshiva's Full-Time Faculty Members Are Managerial and Supervisory Personnel, Not "Employees," Within the Meaning of the National Labor Relations Act	34
A. The Managerial Exclusion	34
B. The Supervisory Exclusion	40

Page

II. The Board's Special Criteria for Treating Yeshiva's Faculty Members as Covered "Employees" Are Without Basis in the Record or in Law 43

A. "Collective" or "Group" Exercise Does Not Negate Managerial or Supervisory Authority 46

B. The Faculty's Asserted Lack of "Final Authority" Is Factually Debatable but Legally Immaterial at Best 48

C. The Idea that the Faculty Members Act in Their Own Interest Rather than that of "Management," and Are Therefore Not Managerial or Supervisory, Is Misconceived in both Fact and Law 50

D. Applying Unsound Law to Undisputed Facts, the Board's Decision Was Properly Denied Enforcement 53

III. Disputed Views of Social and Economic Policy, Neither Taken by the Board Nor Sanctioned by Congress, Cannot Validate the Board's Construction of the Act 54

Conclusion 60

TABLE OF AUTHORITIES

Cases

Page

Adelphi University, 195 N.L.R.B. 639 (1972) 32, 48, 56
American Lithofold Corp., 107 N.L.R.B. 1061 (1954) 36
American Locomotive Co., 92 N.L.R.B. 115 (1950) 34, 36
Beth Israel Hospital v. *NLRB*, 437 U.S. 483 (1978) 53, 54
Brookings Plywood Corp., 98 N.L.R.B. 794 (1952).. 47
Burlington Truck Lines, Inc. v. *United States*, 371 U.S. 156 (1962) 57
C. W. Post Center of Long Island University, 189 N.L.R.B. 904 (1971) 43, 44, 46
Cannon v. *University of Chicago*, No. 77-926 (May 14, 1979) 30, 57
Claremont Colleges, 198 N.L.R.B. 811 (1972) 43
Cornell University, 183 N.L.R.B. 329 (1970) 44, 45, 46
Eastern Camera and Photo Corp., 140 N.L.R.B. 569 (1963) 34
Electric Controller & Mfg. Co., 69 N.L.R.B. 1242 (1946) 34
Firestone Tire and Rubber Co., 112 N.L.R.B. 571 (1955) 34
Fordham University, 193 N.L.R.B. 134 (1971) 44
General Dynamics Corp., 213 N.L.R.B. 851 (1974) 35, 43
General Telephone Company of Michigan, 112 N.L.R.B. 46 (1955) 41, 42
Hotel Employees Local No. 255 v. *Leedom*, 358 U.S. 99 (1958) 53, 54
Howard Johnson Co., 236 N.L.R.B. No. 150 (1978), 1978 CCH-NLRB ¶19,440 at 32,328 42
Local 357, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America v. *NLRB*, 365 U.S. 667 (1961) 53
Miller Electric Co., 103 N.L.R.B. 1492 (1953) 42

	Page
New York University, 205 N.L.R.B. 4 (1973)	32
NLRB v. *Bell Aerospace Co.*, 416 U.S. 267 (1974)	25, 27, 34, 47, 48, 53
NLRB v. *Catholic Bishop of Chicago*, No. 77-752 (March 21, 1979)	37, 57
NLRB v. *Hearst Publications, Inc.*, 322 U.S. 111 (1944)	53
NLRB v. *Metropolitan Life Insurance Co.*, 380 U.S. 438 (1965)	57
NLRB v. *Metropolitan Life Insurance Co.*, 405 F.2d 1169 (2d Cir. 1968)	40
NLRB v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975)	25, 32
Northeastern University, 218 N.L.R.B. 247 (1965)	56
Office Employes International Union, Local No. 11 v. *NLRB*, 353 U.S. 313 (1957)	54
Ohio Power Co. v. *NLRB*, 176 F.2d 385 (6th Cir.), *cert. denied*, 338 U.S. 899 (1949)	40
Packard Co. v. *NLRB*, 330 U.S. 485 (1947)	49, 57, 58
Peter Kiewit Sons' Co., 106 N.L.R.B. 194 (1953)	34, 35
Pittsburgh Plate Glass Co., 115 N.L.R.B. 976 (1956)	42
Presbyterian Medical Center, 218 N.L.R.B. 1266 (1975)	43
Puget Sound Power & Light Co., 117 N.L.R.B. 1825 (1957)	43
Red and White Airway Cab Co., 123 N.L.R.B. 83 (1959)	47
Reiter v. *Sonotone Corp.*, No. 78-690 (June 11, 1979)	57
Retail Store Employees Union, Local 428, 163 N.L.R.B. 431 (1967)	47
SEC v. *Chenery Corp.*, 332 U.S. 194 (1947)	30, 46, 55
Sida of Hawaii, Inc., 191 N.L.R.B. 194 (1971)	47
Spicer Mfg. Corp., 55 N.L.R.B. 1491 (1944)	34

	Page
Sutter Community Hospitals of Sacramento, Inc., 227 N.L.R.B. 181 (1976)	35
Syracuse University, 204 N.L.R.B. 641 (1973)	51, 52
Trustees of Columbia University, 97 N.L.R.B. 424 (1951)	45
University of Chicago Library, 205 N.L.R.B. 220 (1973), *enf'd*, 506 F.2d 1402 (7th Cir. 1974)	43
University of Miami, 213 N.L.R.B. 634 (1974)	50
Western Electric Co., 100 N.L.R.B. 420 (1952)	34, 36
Westinghouse Electric Corp., 163 N.L.R.B. 723 (1967), *enf'd*, 424 F.2d 1151 (7th Cir.), *cert. denied*, 400 U.S. 831 (1970)	43
Statutes	
National Labor Relations Act, 29 U.S.C. § 151 *et seq.*:	1
Section 2(3), 29 U.S.C. § 152(3)	40, 58
Section 2(11), 29 U.S.C. § 152(11)	27, 28, 40, 41, 58
Section 9(a), 29 U.S.C. § 159(a)	52
Miscellaneous	
American Association for Higher Education, *Faculty Participation in Academic Governance* (1967)	27, 37, 40
American Association of University Professors, *Policy Documents and Reports* (1977)	39
D. Bornheimer, G. Burns, G. Dumke, *The Faculty in Higher Education* (1973)	37, 56
120 Cong. Rec. 22576 (1974)	46
Coverage of Nonprofit Hospitals Under the National Labor Relations Act, 1973: Hearings on S. 794 and S. 2292 Before the Subcomm. on Labor and Public Welfare, 93rd Cong., 1st Sess. (1973)	46
N. Demerath, R. Stephens, R. Taylor, *Power, Presidents, and Professors* (1967)	38

	Page
Dougherty, *Collegiality, Governance, and Collective Bargaining in the Multi-Campus State University of New York*, 28 Labor L. J. 645 (1977)	55
Friendly, *The Courts and Social Policy: Substance and Procedure*, 33 U. Miami L. Rev. 21 (1978)	57
J. Galbraith, *The New Industrial State* (1967)	48
S. Hook, P. Kurtz, M. Todorovich, *The Idea of a Modern University* (1974)	55
N. Jacoby, *Corporate Power and Social Responsibility* (1973)	48
Kadish, *The Theory of the Profession and Its Predicament*, 58 A.A.U.P. Bull. 120 (Summer 1972)	56
Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication*, 21 U.C.L.A. L. Rev. 63 (1973)	35
J. Millet, *New Structures of Campus Power* (1978)	55
H. Oleck, *Non-Profit Corporations and Associations* (1956)	48
B. Richman and R. Farmer, *Leadership, Goals, and Power in Higher Education* (1976)	35, 40
M. Ross, *The University, The Anatomy of Academe* (1976)	40

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1978

No. 78-857
NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

YESHIVA UNIVERSITY

No. 78-997
YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioner,

v.

YESHIVA UNIVERSITY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR YESHIVA UNIVERSITY

QUESTION PRESENTED

Whether the Court of Appeals correctly concluded that the full-time faculty members of Yeshiva University are supervisors and/or managerial personnel, and thus not to be treated as "employees," under the National Labor Relations Act, as amended (29 U.S.C. § 151 *et seq.*).

STATEMENT

A. The Facts About Yeshiva

As will appear in the description below (pp. 5-23), which follows essentially the detailed account of the facts in the opinion below (Pet. App. 5a-18a),[1] the several schools of the University vary in size, formal organization and operation. Preliminarily summarized, however, the record shows without dispute that the Yeshiva full-time faculty makes the almost uniformly decisive judgments in hiring and termination of faculty members, tenure, promotion, defining the curriculum (broadly at the outset, then continuously in adding and dropping courses), student admissions and expulsion, grading and degree requirements, and other matters of policy and management. The details vary from school to school. The individual schools are described below after an outline of the overall structure of the University.

1. The University

Yeshiva University, established under Jewish auspices, is a private institution of higher education, chartered under the laws of the State of New York (A. 7, 773-788, 847).[2] It embraces a broad range of traditional arts and sciences at graduate and undergraduate levels, large offerings of Hebrew and Judaic studies and professional

[1] "Pet. App." refers to the Appendix to the Board's petition for a writ of certiorari.

[2] What is now known as Yeshiva University was first incorporated in 1897 as The Rabbi Isaac Elchanan Theological Seminary (A. 7, 773-788). In 1970, the Seminary was separately incorporated (A. 776). The University is authorized to confer doctorates in education, law, medicine, philosophy and social welfare, and honorary doctoral degrees in divinity, Hebrew letters, Hebrew literature, humane letters, laws, pedagogy and science. Masters degrees are conferred in arts, education, science, science in education and social work. Bachelors degrees are conferred in arts and science. (A. 785-786.)

programs at the graduate level (A. 888, 912-939). In its five undergraduate schools and the five (out of eight) graduate schools involved here, it has approximately 225 full-time and 175 part-time faculty and some 2,500 students (A.11, 1282-1285, 1315-1325, 1338-1340, 1342-1343, 1355-1356, 1371-1372, 1399-1400, 1411-1413, 1417-1422).[3]

The University's five undergraduate schools and eight graduate schools are on four separate campuses in New York City: the Main Center (Washington Heights), the Graduate Center (Fifth Avenue), the Midtown Center (Lexington Avenue) and the Bronx Center. Found at the Main Center are Yeshiva College, Erna Michael College, the James Striar School, the Bernard Revel School, Yeshiva Program and the Belfer Graduate School of Science. The Graduate Center houses the Ferkauf Graduate School of Humanities and Social Sciences, the Wurzweiler School of Social Work and the Benjamin Cardozo School of Law. Teachers Institute for Women and Stern College for Women are located at the Midtown Center. The Albert Einstein College of Medicine and the Sue Golding Graduate Division of Medical Sciences are at the Bronx Center. (A. 845, 912, 966, 968, 1005, 1080, 1117.)

Yeshiva University has a self-perpetuating Board of Trustees, consisting (except for the President) of people with no administrative position at the school other than their membership on the Board (Employer's Ex. 22A at p. 129; R. 187).[4] The University's chief executive officer is the President, and there are, in addition, four vice presidents: for medical affairs and science, for student affairs, for business affairs and for academic affairs (*id.*).

[3] Faculty at the Albert Einstein College of Medicine, the Sue Golding Division and the Benjamin Cardozo School of Law were not petitioned for and were not included in the unit.

[4] "R." refers to the original record.

An Executive Council, consisting of the deans and directors of the University's various schools and divisions and certain other administrators, meets approximately twice a month. Primarily a "recommending body," the Executive Council discusses issues brought to it from anywhere within the University and makes recommendations to the President. (A. 41-42, 1188.)

Another organ of University-wide governance is the University Faculty Review Committee. The eight members of this committee, all of whom are full-time members of the faculty, are elected from the various schools of the University. (A. 1216-1217.) They are empowered to act as a hearing committee in discipline and termination cases arising under the University's tenure regulations and in cases concerning promotions (A. 1215-1216). If a case cannot be satisfactorily resolved at a lower level, the final step of the grievance procedure is a recommendation by the committee directly to the dean of the school or, where appropriate, to the President (A. 1215).

Yeshiva has two academic councils: the Graduate Council and the Undergraduate Council. The membership of each consists of two elected faculty representatives, two student representatives, the dean or director of each of the schools involved and members of the central administration. (A. 1171-1176.) The charges of these councils are officially stated as being "on their respective levels, the initiation of programs among the various divisions to develop a feeling of University fellowship; achievement of academic excellence; coordination and cooperation among the divisions" (A. 1188). Beginning in the fall of 1974, the councils started meeting together as a single Committee on Academic Priorities and Resource Allocation (A. 59-60, 329). The purpose of this committee is to provide, for the first time, a set of long-range academic

and fiscal priorities for the University as a whole, touching such matters as the various schools' objectives, class size, staffing patterns, degree requirements, course offerings, admissions, student services, physical facilities, fund raising and tuition levels (A. 330-332).

2. **Stern College for Women**

The Dean of Stern College, who like most deans and many members of the central administration retains his faculty rank, considers himself responsible to serve as the "educational leader" of the college and to report to the President through the Vice President for Academic Affairs "on how the college is conducting itself" (A. 182).

Curriculum is determined ultimately by the faculty as a whole conveying effective determinations to department chairmen and then, in turn, to the Dean (A. 189-190). The Curriculum Committee (comprised of the department chairmen, the Dean and a representative of the Registrar's Office) passes on all changes in graduation requirements and recommends to the faculty any programmatic changes (*id.*). The only power of the Dean to add new courses is a power delegated by the committee: if a department chairman and the Dean agree that a course affects only one department, it can be added without the committee's approval (A. 190). When, during the 1969-70 academic year, the faculty as a whole disagreed with a decision by the Dean and the committee to delete the education major at Stern, the faculty required the Dean to reinstitute it (A. 191).

The Faculty Committee on Academic Standards both sets general standards and decides whether an individual student whose performance is inadequate will be required to leave the school. The Dean has never overruled the committee on such a determination. (A. 188-189.)

Similarly, the Faculty Admissions Committee both establishes admissions standards and decides on individual admissions (A. 191-192).

Other effective recommendations have been made by various other faculty committees, and participation in such committee work, as well as in department and faculty meetings, is part of the faculty's regular endeavors (A. 238). An *ad hoc* Faculty Committee on Grade Distribution recommended a change in the school's grading system which was adopted by the faculty (A. 196). The faculty, upon the recommendation of the Committee on Scheduling Patterns, introduced a new scheduling model for the school (A. 202-203). The Committee on Personnel and Budget, formed in response to budgetary strictures, made generally effective recommendations to the faculty for elimination of elective courses, establishment of joint courses with graduate schools and changes in scheduling (A. 205-206).

There is also a Stern College Senate consisting of six faculty and six student representatives and one representative each for alumni, for the Office of the Dean and for the Office of Student Services (A. 1295). The faculty, alumni and student representatives are elected by their respective constituencies (*id.*). "[A]ll matters affecting the affairs of the college are the proper matter for consideration and action by the Senate" (A. 208). The Senate acts by making recommendations to the faculty which when approved or not disapproved are deemed in effect unless and until the President disapproves of them (A. 209, 1298). Recommendations were made to the faculty during the year preceding the hearing concerning such matters as foreign language requirements for a degree, scheduling patterns and the cooperative program at the school (A. 208).

Stern's nine department chairmen make effective recommendations to the Dean regarding hiring, reappointment, termination, promotion and tenure (A. 193-194, 212-213, 216, 218, 228, 232-233, 240-241).[5] The need to hire a new full- or part-time faculty member is generally called to the Dean's attention by the department chairman. Interviewing is done jointly by the Dean and the chairman, and the Dean has never made an appointment that was not recommended by the chairman. (A. 210.) Approval by the President of hiring recommendations is "routine" (A. 213).

Chairmen make similarly effective recommendations regarding termination of part-time and probationary full-time faculty, and the Dean has only once disagreed with the recommendation of a chairman regarding termination (A. 212-215, 240-241). This exception occurred in 1970-71 when it was necessary to release staff because of a shrinking budget. At that time, the Dean's recommendation and the chairman's were submitted to the President, who sustained the Dean. Thereafter, the issue was

[5] The following table shows where department chairmen are situated (for the most part in the University's larger schools) and how they are chosen (A. 209, 271, 317, 369, 410, 625, 673, 1282, 1315, 1338, 1342, 1411, 1417, Employer's Ex. 129).

School	Number of Chairmen	How Chosen
Yeshiva College	15	Seniority
Stern College	9	Dean
James Striar School	2	Seniority and Faculty Consensus
Ferkauf Graduate School	5	Faculty Recommendation
Belfer Graduate School	4	Elected
Erna Michael College	3	Seniority
Bernard Revel School	7	[Not in Record]

presented to the University Review Committee, which found the issue outside its charge. (A. 214-215, 1313.)

The tenure process also begins with a recommendation from the chairman. All negative tenure recommendations by chairmen have been accepted by the Dean and the administration. The only positive recommendation the Dean has ever disagreed with occurred when a chairman recommended himself for tenure, and in that case the chairman was in fact granted tenure. (A. 216-217, 232-233.) The information considered by the chairmen in connection with tenure recommendations includes the candidate's "activity within the college" and "service to the university other than through the college" (A. 231).

Authority over promotions is shared by the chairmen and a Promotions Committee consisting of the Dean and five elected faculty members, three of whom are department chairmen (A. 233, 1301). The committee solicits promotion recommendations from the chairmen (A. 217-218). The committee has never recommended a promotion over a chairman's negative recommendation, and in six years of service the Dean has accepted all the committee's promotion decisions. The President has granted "the great majority" of recommended promotions, and has never overruled a negative recommendation. (A. 193-194, 217-218.)

3. **Yeshiva College**

According to its Dean, who is also a professor of linguistics, the management of Yeshiva College is entrusted to its faculty, under his leadership, with some student involvement (A. 244-246).

The College Senate is composed of faculty, administration, student and alumni members, with control resting largely in the faculty (A. 1327-1328). The Senate Constitution provides that it has jurisdiction over admissions policy, curriculum, degree requirements, standards of scholastic performance, student attendance, the grading system and academic honors (A. 1329-1330). All measures passed by the Senate may be vetoed by the Faculty Assembly or the President of the University (A. 1330).

Under the College's Faculty Statute (A. 1220-1233), "[s]ubject to approval by the President," the final authority to legislate on all "academic" matters rests with the Faculty Assembly, whose "regular members" include all regular faculty with full-time programs and a "regular appointment on an annual salary" (A. 1220). The Faculty Assembly is empowered to take action binding on the Dean (A. 248-249). This is true even when the Dean himself has voted against the particular measure (A. 249).

During the sixteen-year tenure of the Dean, the President has never vetoed an action of the Senate or Faculty Assembly (A. 250). On one occasion during those years, the President asked the Senate to reconsider a measure, and the Senate left the measure unenacted. On another occasion, he disagreed with a resolution concerning retirement. (A. 250, 713.) The Dean has no veto power over decisions of the Senate or the Faculty Assembly (A. 248-250).

A major component of the College's governance consists of faculty committees.[6] The Scholastic Standing Committee makes all decisions on probation and academic dismissal for students, handles all requests for early

[6] As a matter of University-wide policy, reflected in the Faculty Handbook, each "faculty member * * * [is] expected to fulfill his service on faculty committees and other such normal faculty obligations." (A. 1189.)

graduation,[7] for honors projects and for independent studies, and has been directed by the Faculty Assembly to study and to recommend changes in the grading system (A. 255-256). The residency requirement and grading standards materially affect the ability of the University and the College to attract and retain students (A. 260-262). Authority to introduce new courses at the College is shared by the Curriculum Committee, the faculty, and the affected subject area and division, acting in consultation with its chairman (A. 250-252, 293-294, 682-685, 699, 704, 711-712). The Dean's limited authority, which comes from the faculty, is to introduce new courses for one term on an experimental basis (A. 252-253).

Yeshiva College is divided into "subject areas," which are the equivalents of departments in other schools. Subject areas are in turn organized into four broad "divisions." The faculty member with the most seniority in a subject area is the "senior professor";[8] in the everyday language of the school, he is referred to as the department chairman. The chairman participates together with other faculty in departmental meetings that set departmental policy. (A. 271, 695-696.) One professor from each of the four divisions is elected by the faculty to serve as the division chairman (*id.*). The four division chairmen meet as the Advisory Council, a body created by the faculty (A. 266, 270). Senior professors meet as the Committee of Senior Professors (A. 271, 276).

Faculty promotions at the College are determined by division chairmen, acting individually and as members of the Advisory Council. The process begins with a recommendation from the chairman to the council. (A. 267.) The President has always followed decisions of the council, whether positive or negative (A. 269-270). The President has granted a promotion opposed by the Dean but favored by the council, and has denied promotions when favored by the Dean but opposed by the council (A. 268-270).[9]

Sabbaticals are handled in a fashion similar to promotions. The division chairman makes a recommendation to the Advisory Council for or against granting a sabbatical (A. 270). Although ultimate authority rests with the Dean and the President under the Faculty Handbook (A. 1198), the chairman's recommendations are generally accepted by the council, and the council's decisions have never been overruled by the Dean or the President (A. 270).

Effective recommendations are made by senior professors in the hiring of full- and part-time faculty (A. 272). Either the Dean or the senior professor first determines that an additional faculty member is necessary. Initial screening of applications and interviewing are handled by the senior professor. The senior professor chooses the applicants who will be given a further interview, which is conducted either by the Dean or by the Dean and the senior professor. The Dean and the senior professor then make a joint hiring decision, with the Dean generally accepting the recommendation of the senior

[7] The College has an eight-semester residency requirement that was established by the Faculty Assembly (A. 260-261).

[8] The sole exception is in the English subject area, where for many years a less senior faculty member has acted as senior professor (A. 271).

[9] The Faculty Handbook requires that each degree-granting school "draw up in writing its requirements for promotion," and "invite faculty participation in the formulation and in the continual reevaluation of these rules," circulating them among all members of the faculty (A. 1181). Under the Handbook, "[r]equirements for promotion [must] be based on quality of service and achievement," including service to the school and to the University through participation in various faculty committees and similar bodies (A. 1181, 1189).

professor (A. 272). The opposition of a senior professor is sufficient to block an appointment (A. 272-274). During his sixteen-year incumbency, the Dean has in almost every case accepted both positive and negative recommendations of senior professors regarding the termination and reappointment of part-time and probationary full-time faculty (A. 272-273, 275-276).

The record is, then, that decisions for and against hiring are virtually always the faculty decisions just described. Final authority rests, as stated in the Faculty Handbook, with the President (A. 1189).[10] At the College, however, as at most other schools of the University, the actual role of the President and the Dean has been for the most part to ratify routinely the hiring recommendations of the various schools' faculty and department chairmen (A. 210, 213, 272-274, 333-335, 388, 404-405, 423, 524, 528, 551-552, 624-625, 639-640).

Finally, senior professors largely determine the budgets of their subject areas. Each senior professor makes budgetary requests, which "99 percent" of the time receive the "perfunctory" approval of the Dean. The requests have never been rejected by the University administration. (A. 298-299.)

4. **Erna Michael College**

Erna Michael College provides men with undergraduate training for administrative or teaching careers in Hebrew and Jewish studies. The school, whose Dean teaches a reduced load, is governed by consensus of the faculty. (A. 304-305, 328.) Once a consensus has been reached, the Dean's role is "simply [to] carry out the mandate of the faculty" (A. 328).

[10] The Faculty Handbook says: "Faculty appointments are made by the President, on recommendation of the dean or director of the particular school." (A. 1189.)

The governing body at Erna Michael is the faculty meeting. Subjects handled at faculty meetings include admissions procedures, curricular matters, grading, attendance, course scheduling and the academic calendar. (A. 308-311.) Decisions in the faculty meetings have led to a substantial reduction in the number of hours required to be completed by students, with the result that faculty members teach fewer hours and teach three instead of at least four days a week (A. 310-311). The faculty has power to order the discontinuance of courses, even when this may result in the elimination of a teaching job (A. 326).

As in Yeshiva College, the Erna Michael Dean has regarded himself as bound when the faculty makes decisions with which he disagrees — for example, refusing to institute a trimester academic calendar and making changes in the grading system (A. 312-313). Neither the Dean nor any member of the administration has ever vetoed a faculty decision on curriculum, grading, scheduling or any other academic matters (*id.*).

Governance is also conducted in faculty subject area and committee meetings (A. 314-316). Subject area meetings, which function on consensus (A. 348), deal with curriculum and related matters, as does the Curriculum Committee, and the Admissions Committee establishes the criteria and procedures for student admissions (A. 314-316, 321-323).

Faculty decisions on course requirements and electives, on the degrees to be offered, and on the foundation of new programs were described by the Erna Michael Dean as amounting to a "restructuring" of the College, affecting the number and types of students and the needs for faculty (A. 325-326).

Senior professors are a "determining factor" in full-time hiring. The Dean depends on them to make initial investigations and to interview applicants. (A. 333-334.) The senior professor then makes a hiring recommendation, usually after consulting with other faculty in the department (A. 347). The Dean has never hired a full-time member of the faculty without the consent of the senior professor involved (A. 333-335). In fact, a professor has been hired over an applicant favored by the Dean because of the recommendation of the senior professor (A. 334-335). There is no difference between the full-time and part-time hiring process, and the salary of a new part-timer is set by the Dean based on the recommendation of the senior professor (A. 319, 341-342).

When it was necessary to terminate a faculty member for budgetary reasons, the decision as to which member to terminate, and the establishment of a program to cushion the termination (by retaining a faculty member for one year as a part-timer), were made jointly by the Dean and the senior professor involved (A. 335-336).

5. **Teachers Institute for Women**

The Teachers Institute for Women prepares women for positions as teachers of Hebrew literature, language and culture (A. 372).[11] There are no faculty ranks; all faculty members are "instructors." There are no department chairmen or senior professors. (A. 374-375.)

Teachers Institute's Director, Rabbi Faivelson, testified that "the faculty is the school" (A. 379). The faculty has made effective recommendations regarding the location of the school, which instructors should be terminated,

[11] The Board found that at the time of the hearings there were no full-time members of the Teachers Institute faculty, but noted that such faculty would be included in the unit when full-time appointments were made (Pet. App. 69a n.9).

the curriculum, degree requirements, admissions and faculty hiring (A. 379-381, 384-386, 388-390).

When the need to hire an additional member of the faculty arises, all members of the faculty are asked to make recommendations to the Director. He then asks the faculty if they have any objection to the applicants. No applicant is hired if there is "the slightest objection, even on one faculty member's part." (A. 388.)

The Director described an instance where, for budgetary reasons, he favored the termination of a faculty member. The faculty voted against the termination, and the faculty member was retained. (A. 385-386.)

There was also an occasion when Rabbi Faivelson recommended that Teachers Institute be moved to Brooklyn to attract more students. The faculty meeting rejected the proposal, and the school remained in Manhattan. (A. 379-380.)

6. **James Striar School of General Jewish Studies**

James Striar is another undergraduate school of Jewish studies, providing programs for men with little background in the area. Its Director, Rabbi Morris Besdin, teaches a full-time course load. (A. 352-354.) His role is to serve as "executive arm of the faculty" (A. 361). He testified that faculty meetings are "in a great sense, decisive as to the direction of the school" (A. 358). Subjects of faculty governance and decision-making have included curriculum, administrative regulations, absences, testing and methods of teaching (A. 357-358). In one instance, where the Student Faculty Committee made a recommendation contrary to that of the Director regarding the school's guidance system, the faculty "overruled" him (A. 358-360). On the other hand, the Director could

not recall a time when he had overruled the faculty (A. 361).

7. Yeshiva Program

The Yeshiva Program provides an undergraduate program of study in Talmudic texts. Faculty members at the Yeshiva Program have no traditional faculty rank; instead, they are all designated "rosh yeshiva," which means, literally, "head of yeshiva" (A. 562, 575).

Rabbi Zevulun Charlop, who has been the school's Director since 1971, testified that in any given year the same course (one of the tractates of the Talmud) is taught by all members of the faculty (A. 562, 564-566). The choice of that course is made by consensus of the faculty, as are all other decisions at the school (A. 574). For example, the faculty decided to extend the academic calendar by approximately two weeks, and this decision was put into effect (A. 574-576). Although additions to the faculty are made jointly by Rabbi Charlop and the President, it is vital that they be "acceptable to the faculty" (A. 579).

8. Belfer Graduate School of Science

The Belfer Graduate School offers courses in chemistry, mathematics, physics, and mathematics and science education (A. 968-969).

Arthur Komar became Belfer's Dean in 1968 after the school's faculty accomplished the removal of his predecessor (A. 394-395). Thereafter, he was elected Acting Dean by the faculty, and he obtained a vote of approval from the faculty before accepting a permanent appointment as Dean (A. 395, 767-768). He was teaching one course at Belfer when he testified; he viewed his position as Dean as "first among equals" (A. 394, 409).

The Faculty Council is the "principal governing body" of the school, dealing with curriculum, size of departments, formation of new departments and "the financial status of the school," among other things (A. 403).

Faculty governance is handled for the most part by the school's departments, which have elected chairmen (A. 410-411, 470). The hiring of full-time faculty is decided by a vote of the department, and part-time hiring is determined by department consensus (A. 404-405, 423). Once the department determines whom to approach as a candidate for appointment, the chairman delivers to the Dean the department's choice (A. 405). The length of an appointment is also decided within the department by consensus (A. 406-407). The Dean's only role in hiring is as one member of the Physics Department, where his participation is like that of any other faculty member (A. 409).

Decisions on promotion, nonrenewal of faculty appointments and tenure are also made within each department by consensus. The Dean does not have the right to require the retention of a faculty member if the department decides not to renew that individual, nor may the Dean veto a department's tenure decision. (A. 418-419, 477-478.)

Each department determines its own curriculum, course assignments and student admissions standards. Each department also decides which individual applicants to admit and apportions grants of student aid. (A. 411-412, 420-422.) A Faculty Library Committee makes recommendations regarding library budget priorities that are always accepted (A. 403-404).

The elected chairmen make effective recommendations regarding salary increases for full-time faculty. Dur-

ing the two years immediately prior to the hearings, because of University-wide budgetary restrictions, the full increases recommended by the chairmen could not be given. However, both the priority sequence and the order of magnitude of salary increases were accepted by the administration. (A. 414-418.) In addition, the chairperson of the Mathematics and Science Education Department effectively recommended the cancellation of a tuition increase for her department (A. 413-414).

9. Ferkauf Graduate School of Humanities and Social Sciences

Joseph Gittler has been Dean of Ferkauf since 1966 (A. 595).[12] He stated that the principal governing body of the school is the faculty as a whole (A. 597-598). Thus, faculty meetings act on adoption of major changes in programs, the basic standards of the school, degree requirements, curriculum questions and changes in criteria for promotions (A. 599-600).

Much of the school's governance is by faculty committees. The Promotions Committee effectively determines questions of faculty promotions, the criteria being scholarly ability, growth in mastery of subject matter, teaching effectiveness and University service, *i.e.*, "reliable and productive service on committees at University, School or Department level" (A. 1443). All this occurs after the chairman of the affected department sounds out the sentiments of the faculty he represents and advises the committee (A. 170-171). A promotion has never been made in the face of a negative committee decision (A. 621). Out of approximately eighteen positive recommendations made during Gittler's nine years as Dean, only

[12] He is a member of the faculty, and taught one course in the fall immediately prior to his testimony (A. 595-596).

one recommended promotion was not made (A. 620-621).

Questions of tenure are effectively decided by the Council on Tenure, which consists of all the school's tenured faculty (A. 629-630). The council receives a recommendation from the affected department through its chairman after he has consulted with the members of the department (A. 170-171, 630). Neither Dean Gittler nor the administration has ever reversed a negative tenure decision of the council (A. 633-634). Only once has a positive recommendation not resulted in tenure. In that case, the council's vote was close, and when the department reconsidered the question, a majority of its faculty either voted against tenure or abstained. (A. 632-633.)

Other governance functions are handled by Ferkauf faculty members through their departments. Full-time faculty hiring decisions are effectively made by the faculty of a department, whose chairmen act in their behalf after consultation (A. 170-171, 623, 639). The Dean accepts "ninety-eight percent" of faculty appointments recommended by departments, and the administration has never vetoed an appointment (A. 624-625). The rank of new appointees, and thus placement on the salary scale, is also decided by the department faculty (A. 623-624).

The school's department chairmen are elected or chosen by consensus of the faculty, and then are routinely appointed by the Dean (A. 673). The normal workload equivalency at Ferkauf for full-time faculty and specific semester loads are established by the chairmen in consultation with their departments (A. 611, 664).[13] Sabbati-

[13] The Faculty Handbook states that "[t]he University has the right to expect that its full-time faculty members will devote themselves full-time to the services of the University," which has been set at a load of twelve contact hours or its equivalent (A. 11, 1189). The Handbook goes on to state, however, that "[e]ach school within the University will establish for its faculty regulations defining full-time faculty load in consonance with its needs and programs" (A. 1190).

cals are granted only after a positive recommendation from the department chairman (A. 636). Department chairmen recommend the hiring of part-time faculty, usually after consultation with members of the department. Gittler generally accepts those recommendations. (A. 639-640.)

A number of judgments affecting finances are made by the chairmen sitting together in the Chairmen's Council, where they act as representatives of the various departmental faculties that elected them (A. 664). The amount of money available for each department for part-time hiring is decided after discussions in the Chairmen's Council (A. 639). Until budget restrictions came into effect, about two years prior to the hearings, "every aspect of the budget" was deliberated by the council, and chairmen were to continue to have this budgetary responsibility when discretionary funds again became available (A. 626-627). In fact, when additional faculty appointments became possible, the allocation of appointments between departments was decided by the chairmen (A. 627). Tuition increases are never recommended by Gittler unless the chairmen agree, and recommendations for tuition increases are often initiated by the chairmen after consulting with members of their respective departments (A. 629). In Dean Gittler's words, through this council the "chairmen run the school" (A. 679).

10. Wurzweiler School of Social Work

The Acting Dean of Wurzweiler is Dr. Solomon Green, who retains his faculty rank and at the time he testified was teaching two courses (A. 495-496).

Dr. Green testified that "the internal operation of the school has been heavily governed by faculty decisions" (A. 502). "[T]he primary way that the faculty makes its

desires and will felt is at faculty meetings" (*id.*). These meetings are often concerned with curriculum matters, an area in which the faculty has been the final decision-making body (A. 503-504).

The faculty also makes important budgetary decisions. When it was necessary to generate additional income, the faculty made the decision to increase the size of the student body (A. 505-506). When the Dean proposed a $500 tuition increase, the faculty effectively limited the increase to $300 (A. 505). Dismissal of students for academic inadequacy, with resulting consequences for tuition income, is also decided by vote of the faculty (A. 504-505).

Other faculty governance functions are carried out by means of faculty committees. A committee monitors the work of the school's community social work program to ensure that it meets the goals of the agency providing the program's funding (A. 522-523). The Field Instruction Committee watches over the program through which students are placed with outside social agencies. Together with the Dean and the Field Instruction Coordinator, a member of the faculty, the committee chooses outside agencies, a responsibility which is delegated by the faculty. (A. 556-557.)

The hiring, promotion, termination and tenure policies of the school were, at the time of the hearings, in a state of transition. Hiring was being conducted by an *ad hoc* faculty selection committee that interviewed candidates submitted to it by the Dean (A. 524). Except in one instance where there were only two candidates, one of whom the Dean believed to be "very desirable," the Dean has submitted several candidates to the committee and has accepted all of their recommendations (A. 551-552, 554).

When the NLRB hearings were in progress, the School's Personnel Committee had drawn up guidelines for revision of the hiring, tenure, termination and promotion policies (A. 1401-1410). The determinative role of the faculty in hiring was to be retained, and the faculty's role in promotion, tenure and termination was to be substantially expanded (*id.*). A faculty meeting, held shortly before Dr. Green testified, enacted only part of the guidelines; the remainder of the proposal was submitted to a committee for further study (*id.*). Except for a minor clause contradicting the University's Faculty Handbook,[14] Green confirmed that the Wurzweiler faculty had the authority to promulgate such guidelines, which were binding upon the Dean (A. 537).

11. Bernard Revel Graduate School

Bernard Revel is a graduate school of Jewish studies (A. 1124). At the time of the hearing it had no permanent dean (*id.*). Dr. Leo Landman, the Secretary of the Faculty, handled the day-to-day running of the school, as he had done even when there was a dean (R. 3806). At the time Dr. Landman testified, he was teaching two courses (A. 560).

The faculty is Revel's final decision-making body "with regard to academic matters such as curriculum requirements, degree requirements and admissions standards" (A. 583). Decisions are made at faculty meetings by consensus; when a consensus has been reached on curriculum matters, admissions requirements, degree requirements, or the introduction of new courses, the faculty's decision is generally given effect (A. 583-586).

[14] The clause would have permitted full-time faculty initially financed by grant funds to have such service credited in considering eligibility for tenure (A. 536).

Revel department chairmen recommend both full- and part-time candidates for positions in their departments, and the recommendations are "generally given effect" (A. 588). During the entire period in which Dr. Landman has been at Revel, recommendations not to hire have never been reversed (*id.*).

B. The Board's Proceedings and Decisions

On December 5, 1975, a three-member panel of the Labor Board rendered the basic decision involved here, directing an election sought by petitioner Union in a bargaining unit consisting of all full-time faculty at the University (Pet. App. 68a-79a). In the ruling of present consequence, the Board rejected the University's position that its faculty members are managerial or supervisory personnel and, therefore, not "employees" within the meaning of the Act.

Referring to the large evidentiary record made on this subject, but without specific findings as to Yeshiva University, the Board (1) declined to "reconsider its previous decisions on this issue" and (2) rejected the University's contention "that this particular faculty has authority which is different from and more extensive than the authority vested in the faculties which were the subjects of the earlier cases" (Pet. App. 67a). As in its prior cases, the Board concluded, the Yeshiva faculty's role in governance is not managerial or supervisory because its

> participation in collegial decision making is on a collective rather than individual basis, it is exercised in the faculty's own interest rather than "in the interest of the employer," and final authority rests with the board of trustees. As in the earlier decisions, we find that the faculty members are professional

employees under the Act who are entitled to vote for or against collective-bargaining representation. [Pet. App. 68a; footnote omitted.]

Following that decision, petitioner Union won an election and demanded bargaining rights. In the usual procedure for testing such a demand, the University refused to bargain and the Union brought an unfair labor practice proceeding. The Board, on August 24, 1977, reaffirmed the views it had stated in directing an election, and held that the refusal to bargain was an unfair labor practice (Pet. App. 45a-60a). On October 17, 1977, the Board petitioned for enforcement of its resulting order (Pet. App. 4a).

C. The Decision Below

In appraising the record submitted on the petition for enforcement, the Court of Appeals said (Pet. App. 7a-8a):

> Each school, college and program at Yeshiva enjoys great autonomy in determining its own curriculum, grading system, and academic standards as well as in a wide variety of other matters. Therefore the role of the faculty at Yeshiva can best be appreciated by a review of the individual academic units of the University.

The Court proceeded to the review thus found to be essential (Pet. App. 8a-17a). As a result of that effort, it said (Pet. App. 21a-23a; footnotes omitted):

> The record, which has been set forth in some detail * * * and which is not controverted by the Board, strongly supports the contention of Yeshiva that a full-time faculty, acting at times through committees or department chairmen, and at other

times as a body, exercises supervisory and managerial functions as defined by section 2(11) of the Act and within the Board's prior holdings as discussed in *NLRB* v. *Bell Aerospace Co., Division of Textron, Inc.* [416 U.S. 267 (1974).] We stress that our function is not to examine *in vacuo* the governance procedures of all four-year private institutions of learning described in the briefs of the *amici* universities as "mature" institutions of higher education. Many such institutions have apparently adopted a collegial decision making process in which the faculty plays a decisive role in the development of institutional policy. Given the great diversity in governance structure and allocation of power at such universities it is appropriate to address ourselves solely to the situation at the institution involved in this proceeding. *NLRB* v. *Wentworth Institute*, 515 F.2d 550, 556 (1st Cir. 1975). The record here discloses that in many instances the full-time faculty of the schools of Yeshiva without question effectively recommend the hiring, promotion, salary and tenure of the faculty of the University in a manner which can hardly be described as routine or clerical. They further perform managerial functions not only by their personnel decisions but by adopting the standards of admission, the curriculum, the grading system and the graduation requirements of their school. Moreover, in particular cases the hiring of deans, the physical location of a school, teaching loads, and even the tuition to be charged were controlled by the full-time faculty. Indeed, the ability of the full-time faculty effectively to recommend or even to exercise many of the enumerated powers of section 2(11) and to formulate and effectuate University policy is not really disputed here. The Board's decision of December 5, 1975 treated the issue summarily.

Turning, then, to the Board's stated grounds for finding faculty to be neither supervisory nor managerial—namely, that faculty members are professionals, act collectively and make governance decisions in their own interests, and are subject to the ultimate authority of the board of trustees—the Court found these singly and collectively unavailing to defeat the showing of the faculty's supervisory and managerial functions (Pet. App. 24a-39a). Continuing, the Court observed that Congress appears not to have envisioned application of the National Labor Relations Act, as amended in 1947,

> to professional faculties in private institutions of higher learning. Their governance is unique and has no counterpart in the commercial business models the Act was designed to regulate. [Pet. App. 41a; footnotes omitted.]

Finding no justification in the Board's reasons for extending the Act to Yeshiva's faculty, the Court concluded that enforcement must be denied.[15]

SUMMARY OF ARGUMENT

The NLRB has evolved in this decade, and applied to Yeshiva University, special definitions of the words "managerial" and "supervisory" that result in coverage of university faculty as "employees" under the Labor Act. Ignoring policy- and decision-making powers of Yeshiva's faculty that it would deem managerial and supervisory in any other enterprise—powers over hiring, tenure, promotions, curriculum (the "product"), admissions (the "customers") and other basic matters —, the Board has given *ad hoc* reasons for its position. The Court of Appeals correctly rejected these reasons, and the Board's result resting upon them.

[15] Having denied enforcement upon the grounds stated, the Court of Appeals did not reach a number of other Board rulings the University had assailed, including, among other things, the inclusion of department chairmen and their counterparts, as well as two assistant deans and members of certain committees, and permitting terminal faculty to vote in the election.

I. A. Yeshiva's full-time faculty members are managerial personnel as defined by this Court in *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267 (1974). They perform policy-making and discretionary functions on a higher level and more broadly than industrial workers like expediters, buyers and others who have been held managerial and thus excluded from the definition of "employee" by the Board.

It is clear in good sense and in Board precedent that professionals may perform managerial functions, and Yeshiva's faculty does. The faculty's authority is none the less managerial for being "shared." While shared governance is of a special character in the University, the differences from industrial models disclose more, not less, decisional power in faculty members than in other varieties of managerial employees.

The notion in the Board's brief of faculty *versus* "management" has a false ring. Nobody talks or thinks of the university "management" because the term does not describe the reality. "In the most fundamental sense, the university is the faculty."[16] Or, as the Court of Appeals observed of Yeshiva's faculty (Pet. App. 27a), its broad powers amount in effect to its "substantially and pervasively operating the enterprise."

B. This University's full-time faculty also performs more than one of the functions making its members "supervisors" within Section 2(11) of the NLRA.

[16] American Association for Higher Education, *Faculty Participation in Academic Governance* 27 (1967).

Though the exact incidents vary from school to school, the full-time faculty throughout the University is commissioned to decide with substantial finality, or at least "effectively to recommend * * * action" with respect to, one or more of the subjects of hiring, termination, promotion, salary, tenure and the adjustment of grievances. Authority of this kind is clearly supervisory under the Board's own precedents. There is nothing in the character of faculty members as "professionals" that renders these precedents and their principles inapplicable. Indeed, the Board's decisions also show specifically that professionals answering the definition in Section 2(11) are "supervisors," not "employees," within the meaning of the Act.

II. The Board's special doctrines, announced in and after 1971, for treating university faculty members as employees, rather than managers or supervisors, are factually and legally misconceived.

A. Contrary to the Board's main thesis, the fact that faculty members act "collectively" does not negate either the managerial or the supervisory aspects of their role. (It is notable that Board counsel essentially forsake here this primary ground of the agency's decision.) The Board's decisions in its more accustomed world of industry show that managerial and supervisory personnel, so denominated under the Act, may function in groups or teams. In a striking inconsistency, the Board also opined that Yeshiva's faculty is comprised of "employees" because the professors are under the "ultimate authority" of a Board of Trustees. The Trustees, unlike the faculty, act *only* as a group; except for the President, and unlike faculty members, they lack any individual functions or authority in the University.

B. Equally unsubstantial (and comparably deprecated by Board counsel) is the point that faculty members lack managerial or supervisory status because they lack "final authority." The factual premise is dubious to begin with; regardless of where the formal last word is said, faculty decisions on a wide array of subjects (including curriculum, appointments, tenure, promotions and admissions) are virtually always final in fact. Apart from that, however, the Board again proposes doctrine in conflict with its own familiar principles. Most or all of its decisions declaring people managerial or supervisory under the Act concern individuals subject to the higher authority of others. There is no rational ground for the contradictory treatment of Yeshiva's faculty.

C. The Board commits similar errors when it holds the faculty to be neither managerial nor supervisory because the professors act in their own interest rather than that of "management." Once more, the solecistic reference to "management" is a part of the misconception. Nothing in the record, or in what we may all know about university professors, supports the conception that faculty members act more "for themselves," or less in the interest of the enterprise, than others exercising managerial or supervisory powers. Yeshiva's faculty is expected to assume, and does assume, a variety of such powers.

If the Board's concept means faculty people are more self-interested than the run of managers and supervisors, it is simply contrary to facts the Board itself has acknowledged. If it means faculty interests characteristically diverge from those of the institution, it is again at odds with the record and with the common perception that the faculty is at least the heart of the school.

D. This is not a case for special deference to the Board, which has misconceived the undisputed facts and misapplied the law. If, as we submit, the agency decision was neither consistent with the Act nor rationally defensible, it was properly denied enforcement by the Court of Appeals.

III. Board counsel elide much of the Board's rationale, and tend to substitute argumentation and nonrecord assertions of general fact that were not grounds for the agency's decision. This conflicts with the familiar requirement that the administrative determination be tested "solely by the grounds invoked by the agency." *SEC* v. *Chenery Corp.*, 332 U.S. 194, 196 (1947).

If the tardily imported claims were to be considered, they would be subjects of deep controversy. Against the assertions now made that NLRA coverage would benefit faculties and their institutions, there are cogent arguments, from responsible and authoritative academicians, that the result would be grave injury to the structures of faculty governance and shared authority now characteristic of at least the great colleges and universities. At most, the sociological suggestions and predictions in the briefs for the Board and *amici* indicate that there are profound questions in the background of this case, never plumbed by the Labor Board, that may well touch "the authority of the academic community to govern itself, an authority the free exercise of which is critical to the vitality of our society." *Cannon* v. *University of Chicago,* No. 77-926 (May 14, 1979) (Powell, J., dissenting), slip op. 18. These questions are not fairly to be answered by distorted versions of the NLRA fashioned uniquely for the academy. If such policy issues require statutory revisions, the determination is, of course, for Congress.

The task here is to appraise what the Board did in light of the existing statute and the principled meanings assigned to its terms over the decades. The Court of Appeals correctly faced and resolved the problem thus presented.

ARGUMENT

Introduction

As reflected in the scholarly opinion below, the question before the Court is answered by a principled construction of the National Labor Relations Act's pertinent provisions as their meaning has evolved during decades of administrative and judicial application. Sobering problems of educational philosophy and social policy hover in the wings. There is a temptation, to which some participants have yielded, to rely upon speculation about the benefits and detriments of collective bargaining for university professors and the possible effects of adversary struggle upon the quality and temper of the academy. But these subjects, essentially for legislative judgment, are not fairly within the material issues. The task, properly defined, is to apply the terms of the Act so that their meaning for universities is not at war with their usual meaning.

Perceived in this light by the Court of Appeals, the Board's decision was properly rejected because it rests upon arbitrary, *ad hoc* premises, specially and uniquely created for university faculties, that conflict with the statute and the authoritative definitions settled by the Board and the courts over the years. Though the Yeshiva faculty on this record clearly and undisputedly exercises powers that the Board and the courts have held "managerial" and "supervisory" in other kinds of enter-

prise, the Board has applied singular doctrines, unknown in earlier or different settings, to avoid such a conclusion.

The university is, to be sure, different in major respects from the shops and assembly lines that the Board normally regulates and that Congress had in view when it wrote the Act. The Board has acknowledged with wholesome candor the perplexities entailed by its resulting efforts to adapt. See *New York University,* 205 N.L.R.B. 4, 9 (1973); *Adelphi University,* 195 N.L.R.B. 639, 648 (1972). Respondent University does not question the propriety of those efforts or the legitimacy of the Board's exerting jurisdiction over the people in the academy who are fairly to be deemed "employees" covered by the Act. What is inadmissible, however, is the scrapping and contradiction of lawful general principles.

Our argument in a nutshell is that the Court below correctly identified and set aside this species of departure by the Board. Whatever may be true of other educational institutions, cf. *NLRB* v. *Wentworth Institute,* 515 F.2d 550, 556 (1st Cir. 1975), the University disclosed by the record here is a place where faculty shares heavily in management and supervision. The facts of this "shared management" are plain and undisputed. They show that Yeshiva's full-time faculty is responsible for, and effectively controls, usually with finality:

—Who will be hired.

—Who will be promoted.

—Who will be reappointed.

—Who will receive tenure.

—What the product of the enterprise will be, *i.e.,* what courses will be offered, who will teach them and when.

—How many students (customers) will be admitted and what admission standards must be met.

—What students will be retained, with all that implies financially.

Additionally, there can be no real question that full-time faculty members materially affect decisions concerning tuition levels, school locations and other matters that the parties agree in characterizing as "governance."

There is thus no factual controversy of any consequence and no question of dispositive "findings" supported by disputed evidence. Indeed, in contrast to the careful particularization in the decision below, the Board's decisions lack concrete findings of any kind. Moreover, the Board did not question — and its counsel do not question here — the performance of functions by Yeshiva's faculty that are analogues of functions performed by people who are "managers" and "supervisors" for purposes of the Act in other work contexts. Instead, the Board avoided this logical conclusion by its recently created, unexplained and unsupportable thoughts that faculty members are employees because they are professionals who act in their own interests, collectively, and without "final authority."

These are not, in our submission, meaningful conceptions about the nature and operation of a university like Yeshiva. More importantly, they are not sound tests for distinguishing supervisory and managerial personnel from "employees" covered by the National Labor Relations Act. The resulting error is not cured by new theories and questionable policy claims tendered now by counsel for the Board and *amici curiae.*

I. UNDER FAMILIAR DEFINITIONS, GENERALLY APPLIED, YESHIVA'S FULL-TIME FACULTY MEMBERS ARE MANAGERIAL AND SUPERVISORY PERSONNEL, NOT "EMPLOYEES," WITHIN THE MEANING OF THE NATIONAL LABOR RELATIONS ACT

A. The Managerial Exclusion

The settled definition of "managerial employees" excludes from the coverage of the Act all personnel who "formulate, determine, and effectuate" an employer's policies. See *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 288-289 n.16 (1974).

The exclusion applies to staff members who are in no sense executives or even at a high level of the organizational hierarchy. Thus, expediters have been found to be "managerial" employees, *Spicer Mfg. Corp.*, 55 N.L.R.B. 1491, 1498 (1944), as have buyers, *American Locomotive Co.*, 92 N.L.R.B. 115, 116-117 (1950); *Electric Controller & Mfg. Co.*, 69 N.L.R.B. 1242, 1246 (1946), personnel investigators, *Western Electric Co.*, 100 N.L.R.B. 420, 423 (1952), production schedulers, *Firestone Tire and Rubber Co.*, 112 N.L.R.B. 571, 573 (1955), and lecturers, *Peter Kiewit Sons' Co.*, 106 N.L.R.B. 194, 196 (1953).

It is not necessary that a person manage or supervise other personnel to be excluded from a bargaining unit as a "managerial employee." In *Eastern Camera and Photo Corp.*, 140 N.L.R.B. 569, 572 (1963), the Board excluded the manager and assistant manager of an audio-visual department (the *only* employees in that department) as managerial, although they managed no personnel. The Board has also held that a professional employee, a clinical specialist in neonatology, was a "managerial employee," although she exercised no supervisory responsibility, and was herself subordinate to an associate director and the director of nursing. *Sutter Community Hospitals of Sacramento, Inc.*, 227 N.L.R.B. 181, 193 (1976).

There has never been any doubt that professionals, other than university professors, can be excluded from the Act's definition of "employees" because they exercise discretion or perform decision- and policy-making functions that are managerial. See, *e.g.*, *Sutter Community Hospitals of Sacramento, Inc., supra,* 227 N.L.R.B. at 193 (clinical specialist in neonatology); *General Dynamics Corp.*, 213 N.L.R.B. 851, 860 (1974) (administrative accountants); *Peter Kiewit Sons' Co., supra,* 106 N.L.R.B. at 196 (lecturers).

It follows clearly, we think, that the Yeshiva faculty members are "managerial employees" in the sense of the pertinent exclusion from the Act. This faculty exercises far broader discretionary powers over a wide range of fundamental matters, central to the enterprise, than those that have led to the managerial characterization in many other settings. The Yeshiva faculty determines the curriculum (a major part of the academic "product"), the standards for admitting and retaining students ("customers") and, in significant degree, tuition ("price") levels.

At Yeshiva, "the quality and reputation" of the institution "depend primarily on the faculty."[17] They

[17] For the familiar prevalence of this condition, see B. Richman and R. Farmer, *Leadership, Goals, and Power in Higher Education* 258 (1976). See also the inaugural address of Williams College President Paul Ansel Chadbourne, quoted in Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication,* 21 U.C.L.A. L. Rev. 63, 70 n.16 (1973) (emphasis in original): "Professors are sometimes spoken of as working for the college. They *are* the college." Compare Rabbi Faivelson, herein (A. 379): "the faculty is the school."

make judgments of policy and specific determinations, commonly effective, with respect to hiring, promotion, salary and tenure. By any conceivable measure of common sense and experience, these are far higher, broader, more spacious and critical matters of managerial dimension than, for example, the circumscribed duties of purchasing, employment recommendations or product planning decisions affecting costs that have been found sufficient by the Board to entail managerial status. See *Western Electric Co., supra,* 100 N.L.R.B. at 422-423; *American Locomotive Co., supra,* 92 N.L.R.B. at 116-117; *American Lithofold Corp.,* 107 N.L.R.B. 1061, 1063 (1954).

The analogies to buyers, expediters, production schedulers and others are less than perfect, to be sure. But the imperfections tend further to undermine, not to justify, the Board's position. The Board has not suggested that the scope, impact, quality and nature of the University faculty's powers would be something less than "managerial" in terms of the general principles and precedents applied elsewhere. Rather, the Board's decision rested on unique and exceptional views about faculty, addressed in our argument under the next Point.

The fact that the faculty's authority is "shared authority" is stressed by the Board (Br. 36-39; Pet. App. 68a), but is neither disputed nor, in our submission, ground for doubting the managerial character of the faculty's responsibilities. The Board's analysis is not less flawed when it goes on, perhaps with less than entire consistency, to perceive a line between faculty and what is called the University's "management."

As mentioned just above, it is common ground that the industrial analogy is imperfect. That could have been in itself a strong indicator for the Board that Congress did

not intend to treat professors as "employees" in at least the "mature" four-year college or university.[18] As this Court said recently, when the Labor Act was adopted, "congressional attention focused on employment in private industry and on industrial recovery." *NLRB* v. *Catholic Bishop of Chicago,* No. 77-752 (March 21, 1979), slip op. 14. "It is not without significance," the Court also observed, "that the Senate Committee on Education and Labor chose a college professor's dispute with the college as an example of employer-employee relations *not* covered by the Act. S. Rep. No. 573, 74th Cong., 1st Sess. 7" (*id.;* emphasis in original). The Board strains (Br. 34-35 n.28) to find nothing of consequence in that observation,

[18] As reflected in the literature on academic governance and the careful specificity of the opinion below (see, *e.g.*, Pet. App. 22a), there may be relevant differences between junior colleges and some categories of relatively regimented four-year schools, on the one hand, and the more prestigious, well-established places attracting more sought-after faculty on the other. See American Association for Higher Education, *Faculty Participation in Academic Governance* 1, 10-11, 13 (1967). See also D. Bornheimer, G. Burns, G. Dumke, *The Faculty in Higher Education* 151-152 (1973):

> As has been pointed out, faculty members in most reputable colleges and universities in the United States today already play a significant role in policy making and in administration. In most of the better institutions, the appointment and recruitment of new faculty are left largely to the department. The candidate's future colleagues select him and judge his qualifications. In most instances, faculty members recommend on the granting of tenure and on promotion. The final decisions on these matters are usually left to deans or presidents, but most of the process is under the control of the faculty and any variance from the faculty's recommendation is serious enough to create a major issue.
>
> The faculty also has much to say in most colleges and universities about curriculum and program. Requirements for degrees are proposed by the faculties; courses are set up and administered by the faculty. There are few aspects of curriculum development, except as they relate to the broad and basic mission as a whole, of which the faculty members are not almost fully in control. Indeed, it is because of this very significant role in the above and similar decisions that we believe faculty members are already a part of higher education management rather than employees, as is suggested by those advocating faculty unions as a means of getting more power for the faculty.

or in the legislative history to which it refers, reducing it to a trivial instance of an employee criticizing "an employer," which would not, of course, be a "labor dispute" in a college any more than it would be in a machine shop or a bus terminal.

Having found no guidance in the suggested distinction between college professors and other workers, the Board proceeds to distinguish the modern faculty's powers of decision from "the medieval model of true collegial decision-making in which complete power and authority are vested in a group of peers" (Br. 36). But there is nothing in the National Labor Relations Act, as amended in 1947 and thereafter construed, to support the Board's reasoning from the supposed change since medieval times to the suggestion that powers otherwise "managerial" are something less for being shared. Passing even that, however, the fallacy in the Board's position is highlighted by its proposed dichotomy between "rank and file faculty" (Br. 24) and the university's "management," the argument on this score being that the faculty, exercising "independent professional judgment," cannot therefore be deemed to "serve as agents or representatives of the university's management" (Br. 36).

The notion of a "management" set over or against the faculty has no warrant in the present record or in the things we all know about the fully-developed colleges and universities of our time.[19] The word "management" grates strangely in this setting, as does the reference to "rank and

[19] See, *e.g.*, N. Demerath, R. Stephens, R. Taylor, *Power, Presidents, and Professors* 32 (1967) (emphasis in original): "The college or university scholar does not think of himself as an *employee* of the university, and he resents the suggestion that his relationship to a dean, a vice-president for academic affairs, and a president involves supervisory authority."

file faculty." The dissonance is not merely aesthetic; it comes from the intrinsic incongruity of the concepts. Much may have changed since the essence of education was seen to consist of Mark Hopkins, a log and a student, but surely not so much that it can sound other than ludicrous to speak of the faculty versus the "management" of a great university. Who is — who are — the "management"? Trustees? President? Deans? Transient administrators, often chosen by the faculty,[20] who come and go (or jealously retain faculty rank when they temporarily turn aside to administer) while the faculty endures and guides the destiny of the place they made and keep remaking?

Given the realities, it is neither accurate nor apt to suggest, as the Board does (Br. 32), that there is an absence of faculty "accountability" for managerial activities and responsibilities. The evidence is clear that Yeshiva faculty members are responsible, and are expected to be responsible, for managing broad portions of the educational enterprise, and that such activities are taken into account by their colleagues and by "administration" when determinations are made concerning reappointment, tenure and promotion (A. 191, 231-232, 238, 248-249, 268-269, 274, 328, 379-380, 419, 537, 1427-1428, 1448).

In sum, it is not necessary to insist, though many have, that if there were a single group comprising the

[20] The faculty, who have a long-range commitment to the university, fully expect to "have a significant role in the selection of academic administrators, including the president, academic deans, department heads, and chairmen * * *." *Faculty Participation in the Selection and Retention of Administrators*, Statement prepared by the AAUP's Committee on College and University Government and adopted by the Council of the American Association of University Professors in November 1974, in AAUP, *Policy Documents and Reports* 50 (1977).

essential heart of management, it would be the faculty.[21] It suffices that the faculty exercises powers basically and vitally managerial. This is ample basis in itself for rejecting the Board's view and sustaining the decision below.

B. The Supervisory Exclusion

In addition to their capacity as "managerial," the full-time faculty members of Yeshiva University perform supervisory functions enumerated in Section 2(11) of the Act, excluding them from the definition of covered "employee."[22]

Section 2(11) is written, and is to be read, in the disjunctive, so that an employee is a supervisor if he possesses authority to exercise any one of the powers set forth in that section or the authority effectively to recommend with respect to any one of them. *NLRB* v. *Metropolitan Life Insurance Co.*, 405 F.2d 1169, 1177 (2d Cir. 1968); *Ohio Power Co.* v. *NLRB*, 176 F.2d 385, 387 (6th Cir.), *cert. denied*, 338 U.S. 899 (1949). The record of this case discloses a faculty whose members possess and

[21] "In the most fundamental sense, the university is the faculty." American Association for Higher Education, *Faculty Participation in Academic Governance* 27 (1967). See also, M. Ross, *The University, The Anatomy of Academe* 99 (1976), quoting M. Bundy: "when it comes to a crunch, in a first-class university it is the faculty which decides." Cf. B. Richman and R. Farmer, *Leadership, Goals, and Power in Education* 258 (1976).

[22] Section 2(3) of the Act (Bd. Br. 3) says the term "employee" "shall not include * * * any individual employed as a supervisor * * *." Section 2(11) (*id.*) says:

> The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

exercise an array of supervisory powers. Employing learned and clearly "independent judgment," they have "authority," steadily and pervasively exercised, "effectively to recommend" the hiring, promotion, salary and tenure of the University faculty in a manner that can hardly be described as "routine or clerical * * *." 29 U.S.C. § 152(11).

Without reviewing all the evidences of this authority, it will be recalled that the Dean of Stern College has always accepted the decisions of the faculty Promotions Committee, and the President has never overruled a negative recommendation of that committee (A. 193-194, 217-218). At the Belfer Graduate School, faculty members make all decisions regarding faculty hiring, promotion, tenure and reappointment (A. 404-407, 418-419, 423, 477-478). At Ferkauf, as at Belfer, faculty hiring decisions are made by consensus of the department. Faculty promotions and tenure decisions at Ferkauf are determined by faculty committees. (A. 620-621, 624-625, 629-630, 633-634, 1443.) The Acting Dean at Wurzweiler testified that the faculty had the authority to determine the school's "labor policy" by promulgating guidelines, binding on him, that govern the school's hiring, promotion, tenure and termination policies (A. 537, 1401-1410).

If such supervisory authority were exercised by persons similarly situated in the industrial sector, the Board would exclude them from the unit. In *General Telephone Company of Michigan*, 112 N.L.R.B. 46 (1955), service assistants, who had "no authority to hire, discharge, assign, promote, or discipline employees," *id.* at 49 n.17, were held to be supervisors because their evaluations of operators were given "substantial weight" by chief operators. This was so even though the chief operators made "thorough investigations before disciplining operators or

effecting changes in their status, and [were] in a position to form personal estimates of their qualifications * * *." *Id.* at 49. Similarly, in *Pittsburgh Plate Glass Co.*, 115 N.L.R.B. 976, 977 (1956), laboratory assistants were held to be supervisors because their hiring recommendations were given "substantial weight" by management. See also *Howard Johnson Co.*, 236 N.L.R.B. No. 150 (1978), 1978 CCH-NLRB ¶19,440 at 32,328; *Miller Electric Co.*, 103 N.L.R.B. 1492 (1953). The Board's broad interpretation of the term "supervisor" in an industrial setting cannot be reconciled with the narrow interpretation it has applied here.[23]

The Board puts weight (Br. 29-32) on the proposition, which is not disputed, that "professional employees" may be within the Act's coverage and that professionals differ in possibly interesting respects from nonprofessionals. We are referred to legal and sociological theorizing about types of authority — "bureaucratic" versus professional, for example, suggesting the improbable notion that the two are necessarily distinct or clearly separable — and about varieties of loyalty. But with all of that, the decisive and obvious points here are (1) that

[23] The Board complains (Br. 50 n.43) that the decision below results in a 225 member full-time "faculty body made up of many supervisors and few employees." It argues that this is a "significant factor" against a finding of supervisory or managerial status (*id.*). If square industrial analogies were workable, it would be necessary to say on the other side that if the Board's decision had been upheld, the various schools of the University would be operating with faculty supervisory ratios far in excess of what is usually countenanced in the industrial setting. Thus, Yeshiva College would be operating with a full- and part-time faculty supervisory ratio of 118 to 1; Stern, with a ratio of 75 to 1; Belfer, with a ratio of 41 to 1; and Ferkauf, with a ratio of 59 to 1 (A. 1315-1321; R. 2177; Employer's Ex. 129; A. 1417-1418). In any event, like much else in the Board's brief, this was no part of the agency's rationale in this or any other university faculty case.

professionals are frequently "supervisors," and not covered "employees" for purposes of the Act, see, *e.g.*, *Presbyterian Medical Center*, 218 N.L.R.B. 1266, 1268 (1975); *General Dynamics Corp.*, 213 N.L.R.B. 851, 860, 862-863 (1974); *University of Chicago Library*, 205 N.L.R.B. 220 (1973), *enf'd*, 506 F.2d 1402 (7th Cir. 1974); *Claremont Colleges*, 198 N.L.R.B. 811 (1972); *Westinghouse Electric Corp.*, 163 N.L.R.B. 723 (1967), *enf'd*, 424 F.2d 1151 (7th Cir.), *cert. denied*, 400 U.S. 831 (1970); *Puget Sound Power & Light Co.*, 117 N.L.R.B. 1825, 1827 (1957), and (2) that the Board's argumentation on this subject nowhere suggests why on the record of this case Yeshiva's faculty members are outside the statutory definition.

II. THE BOARD'S SPECIAL CRITERIA FOR TREATING YESHIVA'S FACULTY MEMBERS AS COVERED "EMPLOYEES" ARE WITHOUT BASIS IN THE RECORD OR IN LAW

When it came in 1971, in *C. W. Post Center of Long Island University*, 189 N.L.R.B. 904, to consider for the first time if university faculty members should be classified as "employees" within the Act, the Board recognized that it was exploring an "unchartered [*sic*] area * * *." *Id.* at 905. It did not proceed, however, either (1) to extrapolate from its experience and from the principles evolved over the quarter-century since the Taft-Hartley Act, or (2) to evolve a principled basis for a new departure in deciding whether faculty should be excluded as either managerial or supervisory personnel. It merely announced, without suggesting a source or a rationale, "that the policymaking and quasi-supervisory authority" of the full-time faculty there involved, "exercised by them only as a group [, did] not make them supervisors within the meaning of Section 2(11) of the Act * * *." *Id.* The entire

statement of this significant departure is in a brief quotation (*id.* at 905; footnote omitted):

> Mindful that we are to some extent entering into an unchartered area, we are of the view that the policymaking and quasi-supervisory authority which adheres to full-time faculty status but is exercised by them only as a group does not make them supervisors within the meaning of Section 2(11) of the Act, or managerial employees who must be separately represented. Accordingly, we find that full-time university faculty members qualify in every respect as professional employees under Section 2(12) of the Act, and are therefore entitled to all the benefits of collective bargaining if they so desire.

A little earlier in its new efforts respecting university employment relationships, dealing with nonfaculty employees, the Board had followed the sound course of consulting and applying the same general principles to the educational setting as those applicable under its statute to other forms of enterprise. In *Cornell University,* 183 N.L.R.B. 329, 336 (1970), starting with a locution like that of a year later in *C. W. Post,* the Board followed familiar principles of unit definition under the Act:

> We are mindful that we are entering into a hitherto uncharted area. Nevertheless, we regard the above principles [*i.e.*, prior bargaining history, extent of employee interchange, and others evolved in prior Board cases] as reliable guides to organization in the educational context as they have been in the industrial, and will apply them to the circumstances of the instant case.[24]

[24] The Board followed this mode of analysis in its unit determination in *C. W. Post, supra,* 189 N.L.R.B. at 905, though not in its conclusion concerning the claimed supervisory status of faculty members. To the same effect, see *Fordham University,* 193 N.L.R.B. 134, 137 (1971).

Eschewing such "reliable guides" in deciding whether the members of Yeshiva's faculty are managerial or supervisory personnel, the Board has not justified its stated grounds for importing special concepts into this area. This is not to say that the Board must treat all employment relationships identically. But it is not empowered, any more than other tribunals under the rule of law, to announce arbitrary doctrines that lead to unlike treatment of cases exhibiting no differences shown to be material under the statute. The elementary beginning, after all, is an enactment entrusted to the Board for principled and general application.[25] As the Court of Appeals held, the Board departed from this mandate in its stated grounds for holding Yeshiva's faculty members to be neither managerial nor supervisory.[26]

[25] It hardly furthers the principled and general application of the Act for the Board's counsel now to argue that the Court of Appeals should be reversed because the result reached below "effectively converts all rank and file faculty members into managers or supervisors with no substantial body of employees to oversee" (Br. 24; see also Br. 50 n.43).

The record shows, without dispute, that the members of the faculty, in the unique circumstances of university governance, do indeed manage and do indeed supervise each other with respect to basic subjects like hiring, promotion, tenure (job security) and others. These are the hallmarks of supervisory status in industry. The fact that universities are different cannot change these hallmarks. Moreover, the complaint that all faculty members are treated together comes dubiously from an agency that did exactly likewise — ruling that junior faculty, senior faculty, chairmen, the tenured and the untenured are all "employees," or, as the Board's brief now says, "rank and file" members.

[26] Contrary to suggestions of the Board, YUFA and the AFT (see Board Br. 34 n.28, 44-50; YUFA Br. 36-40; AFT Br. 14-15), nothing in the legislative history of the 1974 health care amendments to the National Labor Relations Act warrants a different conclusion. True, Congress recognized during the process of reaching the 1974 changes that the Board had previously taken jurisdiction over private colleges and universities. See *Cornell University, supra,* 183 N.L.R.B. at 329; compare *Trustees of Columbia University,* 97 N.L.R.B. 424 (1951). At no point in the debates or relevant reports, however, did

(Footnote continued on next page)

A. "Collective" or "Group" Exercise Does Not Negate Managerial or Supervisory Authority

The fact of "group" or "collective" exercise was the first ground announced by the Board, in *C. W. Post, supra,* for denying that university faculty should be deemed managerial or supervisory and for holding, as a consequence, for the first time that such faculty members are "employees" covered by the Act. (Grounds added later are discussed *infra,* pp. 48-53.) It may be specially notable, therefore, that this continued aspect of the Board's position, applied in the present case to Yeshiva, is relegated to a footnote, as something the Board "noted," in government counsel's defense here of the Board's decision (Br. 40-41 n.35). Cf. *SEC* v. *Chenery Corp., supra,* 332 U.S. at 196. The point is in any event indefensible.

There is no statutory language or history to support the Board's peculiar view of powers exercised collectively. On the contrary, relevant precedents, including the Board's own, vindicate the position of the Court of Appeals on this subject.

In a controlling decision, this Court (as well as the Board, though it had erred in another respect) made clear

---

(Footnote continued from previous page)

Congress consider the question of faculty coverage, let alone the "supervisory" and "managerial" concepts that the Board has adopted in faculty status cases decided after *Cornell University, supra.* Counsel for a Committee of Interns and Residents, who is also counsel for YUFA here, submitted a written Appendix to his Statement at the Hearings referring to some of the faculty cases. *Coverage of Nonprofit Hospitals Under the National Labor Relations Act, 1973: Hearings on S. 794 and S. 2292 Before the Subcomm. on Labor and Public Welfare,* 93rd Cong., 1st Sess. 316-319 (1973). But it appears never to have been noted — it certainly was not mentioned — by any member of either House at any time. What is plain is that, as Senator Williams, sponsor of the Senate bill, noted, the health care amendments were "carefully tailored" only to the specific needs of the health care industry. 120 Cong. Rec. 22576 (1974).

that an employee functioning as part of a "team" may be "managerial" in the pertinent sense. See *NLRB* v. *Bell Aerospace Co., supra,* 416 U.S. at 270-271. Similarly, in *Retail Store Employees Union, Local 428,* 163 N.L.R.B. 431, 432 n.4 (1967), the Board found that two office clerical employees were managerial personnel because they served as officers of the respondent union and in their capacity as officers were members of the union's executive board, which passed upon the hiring and discharging of organizers and made other policy decisions.[27]

The Board's otherwise unprecedented and unexplained idea that power collectively exercised cannot be managerial is particularly inconsonant in the present setting, where the Board advances the further point (see *infra,* pp. 48-49) that the faculty's power is less than significantly managerial because it is subject to the "ultimate authority" of Yeshiva's Board of Trustees. The Board of Trustees exists for Yeshiva only as a collectivity. Its members, except for the President, are outsiders, functioning for the University only in their group capacity. It is anomalous that the Labor Board should attribute vital importance to the Trustees' group power while discounting altogether the faculty's managerial functioning because it is conducted in groups and committees.

The Court of Appeals was on solid ground when it said on this subject (Pet. App. 32a):

> Logically, we see no reason that the fact that the policies of a company are created by a group (as indeed they usually are by the Board of Directors) rather than by an individual should be of significance

---

[27] Cf. *Sida of Hawaii, Inc.,* 191 N.L.R.B. 194, 195 (1971); *Red and White Airway Cab Co.,* 123 N.L.R.B. 83, 85 (1959); *Brookings Plywood Corp.,* 98 N.L.R.B. 794, 798 (1952). In these cases, employee-shareholders were excluded from the bargaining units where as a group they held sufficient shares to give them an effective voice in the formulation of corporate policy.

in determining whether an individual has managerial status, and the Board has advanced no satisfactory rationale for the weight it has given this factor.

The Board offered no ". atisfactory rationale" because there is none. Common knowledge, to say nothing of an extensive literature on business management, confirms that managerial power is regularly exercised by people acting in groups or committees. See, *e.g.*, J. Galbraith, *The New Industrial State* 60-71, 77 (1967); N. Jacoby, *Corporate Power and Social Responsibility* 58 (1973); H. Oleck, *Non-Profit Corporations and Associations* § 183 (1956). Nothing in the Labor Act entitles the Board to ignore or distort this reality.[28]

B. The Faculty's Asserted Lack of "Final Authority" Is Factually Debatable but Legally Immaterial at Best

In *Adelphi University*, 195 N.L.R.B. 639 (1972), while it candidly "manifested a progressive uncertainty," *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 277 (1974), the Board added to its idea about collective action a second point to support its view of the faculty there as nonmanagerial and nonsupervisory: that "the ultimate authority [did] *not* rest with the peer group but rather with the board of trustees." *Adelphi University, supra*, at 648 (emphasis in original). The point was reiterated in

[28] The Court of Appeals may have given more than deserved weight to a textual thought it found to suggest that "supervisors" under Section 2(11) of the Act should be expected to do their supervising as "individuals." (See Pet. App. 29a-31a.) It is true that the definition refers to "any individual having authority" of various kinds in stating what a "supervisor" is. But it does not say the "authority" must be exercised by the "individual" only individually, and the Board's own cases, as we have shown, have not required this. Understandably, then, the Board does not invoke this textual suggestion here. In any event, as the Court of Appeals also observed (Pet. App. 31a-32a), even the possible question of semantics does not arise with respect to the managerial powers of the faculty.

the Board's ruling in the instant case (Pet. App. 68a). It is another item counsel now relegate to a footnote, as something the Board "pointed out" (Br. 40-41 n.35). It is, as the Court below held, "particularly unconvincing" (Pet. App. 37a).

We may leave to one side for this purpose the evidence of record that Yeshiva faculty decisions of major managerial and supervisory consequence are very commonly "final" for all practical purposes, whatever the formalities may be. There is at any rate no basis for the idea that a person may be deemed to perform "managerial" functions, in a business or other form of organization, only if he or she exercises "final authority." On the Board's unexplained theory, most of those we all think of as "management" would be excluded.

Certainly, this novel idea would overturn most or all of the Board and court cases in which particular individuals or groups were found to be managerial or supervisory and therefore outside the class of "employees" covered by the Act. See cases cited *supra*, pp. 34-36, 41-43. In none of those cases were the various employees — buyers, expediters, etc. — anywhere close to the pinnacles of corporate power. Their authority, though not "final," was nonetheless clearly managerial. The point applies equally for the category of supervisors — from foremen to service assistants.[29] The case of the Yeshiva faculty is clearer still.

[29] It should be sufficient for this purpose to recall, briefly, relevant decisions of the Board and this Court. Board decisions cited earlier (pp. 34-35) show that relatively low-level expediters or buyers, speaking much less than the last word, may be managerial. And *Packard Co.* v *NLRB*, 330 U.S. 485 (1947), seen in the retrospective light of Congress' superseding decision to exclude foremen among others as supervisors, reminds us that such excluded personnel may be "subject, of course, to the overall control and supervision of the manager." *Id.* at 487.

C. The Idea that the Faculty Members Act in Their Own Interest Rather than that of "Management," and Are Therefore Not Managerial or Supervisory, Is Misconceived in both Fact and Law

The thought that university professors pursue their own interests, not "the management's," was added to the *C. W. Post* rationale when the Board came to decide *University of Miami*, 213 N.L.R.B. 634 (1974). Like the earlier pronouncement, it was only stated, not justified by evidence or legal analysis. It is adopted now by Board counsel as a primary point (Br. 40-45). In agreement with the Court below, we submit that it is untenable.

The Court of Appeals observed on this subject (Pet. App. 33a-34a; citations and footnote omitted):

> The record in no way supports this proposition and in its argument the Board simply advances the conclusory statement that collegial action by peers is inherently action in the interest of the faculty themselves, not in the interest of the University *qua* employer. Indeed, this is characterized in the Board's brief as a "circumstance peculiar to most institutions of higher learning." However, looking at the record one cannot escape the conclusion that even assuming that the faculty's determinations on personnel, curriculum, admissions, grading, graduation requirements and other policy issues were motivated by the faculty's own best interests, the fact that the administration and Board of Trustees of Yeshiva so rarely interfered in the faculty decisions indicates that the interest of the faculty and of the University were almost always coextensive. * * * Certainly, the deans whom the Board found to be supervisory or managerial displayed a remarkable degree of acquiescence and often went so far as to proclaim their identity of interest with the faculty. The full-time faculty as a whole or through committees have not in fact acted simply in an advisory capacity, nor have they merely made recommendations which were accorded substantial weight; their decisions on major policy issues have, for the most part proved definitive. Our review of the record leads us to conclude that at Yeshiva University, as Director Faivelson remarked of the Teacher's Institute: "The faculty is the school."

Contradicting what the Court of Appeals wrote, the Board's brief says, in its Summary of Argument (p. 22), that "substantial evidence supports the Board's finding that faculty members at Yeshiva act in their own interest, rather than the interest of management * * *." But there is no reference to evidence, substantial or not, either at this or any other place in the Board's brief, to support the assertion.

This reflects the anterior difficulty that there is no indication what "evidence" of this nature might look like. The Board has never purported to express what it imagines is the "own interest" of university professors that distinguishes them from "managerial" personnel like buyers, expediters and others so characterized by the Board, or from supposedly self-interested workers who have been found to be supervisors. When a buyer seeks the best price for his company or a foreman seeks efficient performance on the line, he is presumably seeking the interest of "management," but not ignoring his own interest in excelling, succeeding, advancing. There is no relevant sense in which a professor is any more focused on his or her own interest.

Indeed, when the Board has permitted itself to think along this line, it has been led to recognize "the economic

benefits which faculty frequently forego to pursue intellectual goals and reap noneconomic rewards." *Syracuse University*, 204 N.L.R.B. 641, 643 (1973). It is not necessary for present purposes to contrast such goals with "bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment," for which employee representatives are contemplated in the NLRA, Section 9(a). The comparison serves merely as an apposite reminder that the Board's concept of faculty members acting in their "own interest" has no weight or utility in deciding the question presented. It is at best an unrealistic and uncertain way of describing an immaterial fact. It does not alter the crucial and indisputable facts of managerial and supervisory responsibility in the Yeshiva faculty's decisions affecting curriculum, hiring, tenure, grading and the other matters reviewed above.

There is a banal sense in which all of us act in our "own interest" all the time — in the sense that we choose to do what we do, whether it is to steal or cheat or sacrifice our lives for a cause. This is true of corporate presidents and boards of directors no less than of workers on the line. But tautologies of this kind solve no problems. And the Board has not vouchsafed even a tautology to explain what it means by saying that Yeshiva's faculty members, unlike foremen and buyers, act "in their own interest."

The dichotomous stance constructed by the Board is not only unsupported, it is belied by so much of the record as may seem relevant. The evidence shows, without contradiction, that the Yeshiva faculty's judgments are almost always accepted by the administrators with whom they share the University's governance (see, *e.g.*, A. 250, 313, 361). The record thus accentuates how meaningless it is to posit a faculty acting in "its own," as opposed to

"the management's," interest. We have urged that the Court should reject the conception of a separate, and opposed, "management" of a university like Yeshiva. But its acceptance could not enhance the Board's theory of opposed interests distinguishing faculty people from others who exercise managerial and supervisory powers in the course of earning their living.

D. Applying Unsound Law to Undisputed Facts, the Board's Decision Was Properly Denied Enforcement

There are, as stated by the Court of Appeals (Pet. App. 21a, 23a), no disputes about the material facts shown by the record. The controversy, as in *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267 (1974), is over the Board's legal conclusions defining "managerial" and "supervisory" for purposes of the Labor Act. The decision of the court below denied enforcement because it rejected those legal conclusions. We argue that the Court of Appeals was right.

In this legal setting, petitioners are mistaken, we think, in relying upon cases like *NLRB* v. *Hearst Publications, Inc.*, 322 U.S. 111 (1944), and *Beth Israel Hospital* v. *NLRB*, 437 U.S. 483 (1978). This is not a case of a narrowly "specific application of a broad statutory term," *NLRB* v. *Hearst*, *supra*, at 131, or of "fill[ing] the interstices of the broad statutory provisions," *Beth Israel Hospital* v. *NLRB*, *supra*, at 501, or of striking an arguable balance between conflicting interests where the essential principles of law are not seriously or broadly contested (*id.*).

Here, rather, as in *Bell Aerospace*, *supra*, and myriad other cases, *e.g.*, *Local 357, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America* v. *NLRB*, 365 U.S. 667 (1961); *Hotel Employees*

Local No. 255 v. *Leedom*, 358 U.S. 99 (1958); *Office Employes International Union, Local No. 11* v. *NLRB*, 353 U.S. 313 (1957), the Board has formulated rules designed for wide applicability. Indeed, the mistakes we claim the Board made include its failure to focus sharply on the concrete facts of Yeshiva University disclosed by the record. However that may be, the Board's decision is surely "reviewable for consistency with the Act, and for rationality," *Beth Israel, supra*, 437 U.S. at 501, and respondent's position is that it was correctly set aside on both grounds by the Court of Appeals.

III. DISPUTED VIEWS OF SOCIAL AND ECONOMIC POLICY, NEITHER TAKEN BY THE BOARD NOR SANCTIONED BY CONGRESS, CANNOT VALIDATE THE BOARD'S CONSTRUCTION OF THE ACT

Mention has been made above of the tendency of Board counsel to play down, nearly to suppress altogether, substantial portions of the Board's stated rationale for its decision.[30] At the same time, government counsel now tender for the Board asserted facts, not found by the agency, about the supposed effects and desirability of collective bargaining in the university, and the briefs for *amici*, notably that of the American Association of University Professors, expand on thoughts about social and educational policy nowhere mentioned, let alone adopted, by the Board as supports for its determination. It seems necessary to state, therefore, that the various assertions thus presented are unproved; that they would have been sharply contested had they been timely raised; and that they are, above all, inadmissible props for an administrative ruling that must be sustained, if it can be, "solely by the grounds invoked by the agency." *SEC* v. *Chenery Corp., supra*, 332 U.S. at 196.

[30] See Board Brief 40-41 n.35, treating in this fashion the Board's points about faculties acting collectively and lacking final authority.

1. Government counsel tell us (Br. 45-48), citing some reports and articles but nothing in the record because there is nothing, that the right of faculties to have collective bargaining under the National Labor Relations Act is a good thing for universities and "also is consistent with traditional concepts of shared authority" (Br. 47). We are told that out of the thousands of private colleges and universities, faculty members have chosen bargaining representatives at 77 and rejected them at 41 (Br. 46 n.39). We are even cited to portions of 20 collective bargaining agreements, like all the rest unexamined and unconsidered in the record (Br. 47-48), ostensibly to show their constructive and beneficial effects.

If this were the place to open in this way a wholly new debate, it would be necessary to stress how weak the statistics are for petitioners and how few private four-year campuses have actually voted for faculty unions. We would want to consider, too, a substantial body of weighty opinion that collective bargaining in the style of industry is destructive of basic academic values; that the rise of the adversary mode on campus has already impaired some of the most cherished qualities of the community of scholars; and that there has been a decline in faculty prestige and status largely because the scholars have been seen too often to seek selfish material and other preferences at the expense of students, alumni and others with a stake in the educational enterprise.[31] Board counsel's undocumented

[31] See, *e.g.*, Dougherty, *Collegiality, Governance, and Collective Bargaining in the Multi-Campus State University of New York*, 28 Labor L. J. 645 (1977); J. Millet, *New Structures of Campus Power* 272-273 (1978); S. Hook, P. Kurtz, M. Todorovich, *The Idea of a Modern University* 166, 279 (1974).

optimism about unruffled campus "governance" with faculty unions under the NLRA would be tested by tough questions about effects on faculty or faculty-student senates, possible conflicts with other existing structures, and implications for evolving new mechanisms and procedures in the considerable flux of academies in our time.[32]

[32] Board counsel's current optimism should be contrasted with the Board's own concern on the governance question as stated in *Adelphi University, supra,* 195 N.L.R.B. at 648 n.31:

> The delegation by the University to such elected groups [the faculty committees] of a combination of functions, some of which are, in the typical industrial situation, normally more clearly separated as managerial on the one hand and as representative of employee interests on the other, could raise questions both as to the validity and continued viability of such structures under our Act, particularly if an exclusive bargaining agent is designated.

See also *Northeastern University,* 218 N.L.R.B. 247, 249 (1965), where the Board refused to pass upon the question whether departmental committees could continue in existence if the petitioner were certified as exclusive bargaining agent, this despite a letter from a group of affected faculty urging clarification because it was "in the dark as to the impact of an affirmative vote upon our collegial system with its shared governance arrangements."

A former President of the American Association of University Professors has noted that the university as we have always known it may be imperilled by the advent of faculty collective bargaining:

> The process of collective bargaining itself, which has been gaining increased ground in higher education, raises problems even apart from the strike. In dividing the university into worker-professors and manager-administrators and governing boards, it imperils the premise of shared authority, encourages the polarization in interests and exaggerates the adversary concerns over interests held in common. In placing the professor in the position of bargainer seeking to exact his demands from the university's managers and owners, the process of collective bargaining heavily burdens the professor's role as primary governor of the educational enterprise. Moreover, the process itself as it functions tends to remit issues which faculty should themselves determine to outside agencies, such as state and federal boards, arbitrators, and union bureaucracies. In addition, since unions rest on continued support of their constituency, the process becomes susceptible to essentially political rather than essentially academic decision-making.

Kadish, *The Theory of the Profession and Its Predicament,* 58 A.A.U.P. Bull. 120, 122 (Summer 1972). See also, D. Bornheimer, G. Burns, G. Dumke, *The Faculty in Higher Education* 158 (1973).

The most that could be said here about the points of view and potential conflicts thus briefly adumbrated is that they point to grave questions of judgment touching "the authority of the academic community to govern itself, an authority the free exercise of which is critical to the vitality of our society." *Cannon* v. *University of Chicago,* No. 77-926 (May 14, 1979) (Powell, J., dissenting), slip op. 18. The thought promptly following would be that "it is the constitutional function of the Legislative Branch, subject as it is to the checks of the political process, to make this judgment." *Id.* at 19. It would at a minimum be strongly arguable that we would be dealing with "policy considerations more properly addressed to Congress than to this Court." *Reiter* v. *Sonotone Corp.,* No. 78-690 (June 11, 1979), slip op. 11; see also *Packard Co.* v. *NLRB,* 330 U.S. 485, 500 (1947) (Douglas, J., dissenting); Friendly, *The Courts and Social Policy: Substance and Procedure,* 33 U. Miami L. Rev. 21, 22 (1978).[33] *A fortiori,* then, if we were confronting arguments adopted by the Board itself rather than advanced as "appellate counsel's *post hoc* rationalizations for agency action," *Burlington Truck Lines, Inc.* v. *United States,* 371 U.S. 156, 168 (1962); see also *NLRB* v. *Metropolitan Life Insurance Co.,* 380 U.S. 438, 444 (1965), there would be severe doubt about the propriety of such policy

[33] Board counsel, alert to nearby implications, assure us (Br. 35 n.29) that this is not a case, like *NLRB* v. *Catholic Bishop of Chicago,* No. 77-752 (March 21, 1979), where it might require "a clear expression of Congress' intent" (*id.,* slip op. 17) to extend the Board's jurisdiction over faculty. It is true that Yeshiva has not raised the broad question of "jurisdiction" over the University generally, and no question has been presented relating to the religion clauses of the First Amendment. But the extension of coverage *to faculty,* especially had there been an airing of the broad policy impacts the Board chooses now to implicate for the first time, might well have triggered a debate over the academic freedom aspects of the First Amendment, on which see the observations and citations in the dissent of Mr. Justice Powell in *Cannon* v. *University of Chicago,* quoted *supra.*

judgments as grounds for the Board's belated decision to begin in 1971 treating university professors generally as "employees" within the Act.

Returning to fundamentals, we stress that none of this is found in the Board's record or reasoning. It is not available or effective to support what the Board actually decided.

2. Less important, and no less clearly immaterial, is counsel's stress upon the "faculty's strong vote for the Union" (Br. 53). The Board's decision rested, of course, upon grounds that were required in their nature to precede any vote; it could not be validated later by a pro-union vote. If it were necessary to recall precedent for this purpose, we would remember that foremen and other supervisors were organizing in appreciable numbers when this Court held them within the NLRA, *Packard Co.* v. *NLRB*, 330 U.S. 485 (1947), and Congress soon chose none the less to exclude them in Section 2(3) and (11) of the Act as amended in 1947.

We need not solemnize Bernard Shaw's jibe at professions as "conspiracies against the laity" to know that all kinds of groups, from corporate presidents to unskilled laborers, may have an interest in organizing for maximum rewards. The question, as the Board properly saw it, was not whether Yeshiva's faculty might deem itself advantaged, perhaps at the expense of others in the University, by NLRA coverage. It was and is, by wholly other tests, whether the faculty members are "employees" for the Act's purposes.

3. Other asserted theories and unproved allegations of fact, mostly laced through the *amicus* briefs, are distractions at best from the question presented to this Court. Without cataloguing all, we note such untested

"information" and opinion as inferences from a study of decision-making at New York University,[34] problems of nonaccountability at Northeastern University,[35] and speculations about the potential effects of a decision in this case upon the totally different areas of elementary and secondary education.[36] None of these things in our view should have any bearing upon this Court's deliberations. The question is only whether the Court of Appeals was right in holding that the Board's decision, rested upon the Board's reasons and the record it had made, could not be squared with a principled construction of the Act.

---

[34] YUFA Brief 34-35.

[35] Board Brief 42.

[36] NEA Brief 13-14.

CONCLUSION

The judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

MARVIN E. FRANKEL
SAUL G. KRAMER
MARK L. GOLDSTEIN
PROSKAUER ROSE GOETZ & MENDELSOHN
300 Park Avenue
New York, New York 10022
(212) 593-9000
Attorneys for Respondent

Of counsel:
SIDNEY SCHUTZ
55 Fifth Avenue
New York, New York 10003

GERALD A. BODNER
1300 Morris Park Avenue
Bronx, New York 10461

July, 1979

Supreme Court, U.S.
FILED
SEP 17 1979
MICHAEL RODAK, JR., CLERK

FOR ARGUMENT

Nos. 78-857 and 78-997

In the Supreme Court of the United States

OCTOBER TERM, 1978

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

YESHIVA UNIVERSITY FACULTY ASSOCIATION, PETITIONER

v.

YESHIVA UNIVERSITY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

REPLY BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

WADE H. MCCREE, JR.
Solicitor General

LAWRENCE G. WALLACE
Deputy Solicitor General

STEPHEN M. SHAPIRO
Assistant to the Solicitor General
Department of Justice
Washington, D.C. 20530

JOHN S. IRVING
General Counsel

JOHN E. HIGGINS, JR.
Deputy General Counsel

ROBERT E. ALLEN
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

LINDA SHER
Assistant General Counsel

DAVID S. FISHBACK
Attorney
National Labor Relations Board
Washington, D.C. 20570

INDEX

CITATIONS

Cases:	Page
Adelphi University, 195 N.L.R.B. 639	6-7
Allied Chemical Workers v. *Pittsburgh Plate Glass Co.*, 404 U.S. 157	13-14
American Locomotive Co., 92 N.L.R.B. 115	6
Bell Aerospace, a Division of Textron, Inc., 219 N.L.R.B. 384, on remand from 416 U.S. 267	3, 4-5, 6
C. W. Post Center, 189 N.L.R.B. 904	6
Consolidated Papers, Inc., 179 N.L.R.B. 165	5
Dow Jones & Co., 142 N.L.R.B. 421	6
Duquesne University, 198 N.L.R.B. 891	18
Dynalectron Corp., 231 N.L.R.B. 1147	6
Electric Controller & Mfg. Co., 69 N.L.R.B. 1242	6
Electric Wiring, Inc., 193 N.L.R.B. 1059	5
Fibreboard Paper Products Corp. v. *NLRB*, 379 U.S. 203	14
Firestone Tire & Rubber Co., 112 N.L.R.B. 571	6
Ford Motor Co. v. *NLRB*, No. 77-1806 (May 14, 1979)	17
General Dynamics Corp., 213 N.L.R.B. 851	4
Hertzka & Knowles v. *NLRB*, 503 F.2d 625, cert. denied, 423 U.S. 875	18
International Union of United Brewery Workers v. *NLRB*, 298 F.2d 297, cert. denied, 369 U.S. 843	2
Ladish Co., 180 N.L.R.B. 582	18

Cases—Continued — Page

Lockheed-California Co., 217 N.L.R.B. 573 6
Monarch Rubber Co., 129 N.L.R.B. 482 6
National Cash Register Co., 95 N.L.R.B. 27 6
NLRB v. *Bell Aerospace Co.*, 416 U.S. 267 3
NLRB v. *Hearst Publications*, 322 U.S. 111 14
NLRB v. *Master Stevedores Association of Texas*, 418 F.2d 140 2
NLRB v. *North Arkansas Electric Cooperative, Inc.*, 412 F.2d 324 3
NLRB v. *Northeastern University*, No. 78-1222 (1st Cir. June 26, 1979) 18
New York University, 205 N.L.R.B. 4 8
New York University, 221 N.L.R.B. 1148 8
Northeastern University, 218 N.L.R.B. 247 7
Peter Kiewit Sons' Co., 106 N.L.R.B. 194 6
Spicer Mfg. Corp., 55 N.L.R.B. 1491 6
Stephens Institute, 241 N.L.R.B. No. 71 (1979) 19
Sunnen Products, Inc., 189 N.L.R.B. 826 18
Sutter Community Hospitals of Sacramento, 227 N.L.R.B. 181 5
Syracuse University, 204 N.L.R.B. 641 7
Trustees of Boston University v. *NLRB*, 575 F.2d 301, petition for cert. pending, No. 78-67 7
University of Detroit, 193 N.L.R.B. 566 7
University of Miami, 213 N.L.R.B. 634 7
University of Vermont, 223 N.L.R.B. 423 7
Western Sample Book and Printing Co., 209 N.L.R.B. 384 5

Cases—Continued — Page

Westinghouse Electric Co., 100 N.L.R.B. 420 6
Wichita Eagle & Beacon Publishing Co. v. *NLRB*, 480 F.2d 52, cert. denied, 416 U.S. 482 3

Statute:

National Labor Relations Act, 29 U.S.C. 151 *et seq.*:
Section 2(11), 29 U.S.C. 152(2)(11) 2
Section 8(a)(2), 29 U.S.C. 158(a)(2) 18, 19

Miscellaneous:

Academic Freedom and Tenure: University of Detroit, 64 A.A.U.P. Bull. (Mar. 1978) 15
Finkin, *The NLRB in Higher Education*, 5 Toledo L. Rev. 608 (1974) 19
H. Bowen, *Academic Compensation: Are Faculty and Staff in American Higher Education Adequately Paid?* (1978, Teachers Insurance and Annuity Association) 15
N. Demerath, R. Stephens, R. Taylor, *Power, Presidents, and Professors* (1967) 9
On Full-Time Non-Tenure-Track Appointments, 64 A.A.U.P. Bull. (Sept. 1978) 15

Miscellaneous—Continued Page

R. Nielsen & I. Polishook, *Collective Bargaining and Beyond*, The Chronicle of Higher Education (May 21, 1979) 16

W. Hansen, *An Era of Continuing Decline: Annual Report on the Economic Status of the Profession, 1978-1979*, 65 Academe: Bulletin of the AAUP (Sept. 1979) 14, 15, 16

In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

YESHIVA UNIVERSITY

No. 78-997

YESHIVA UNIVERSITY FACULTY ASSOCIATION, PETITIONER

v.

YESHIVA UNIVERSITY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

REPLY BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

I.

The University contends that faculty members perform functions that are "analogues of functions

performed by people who are 'managers' and 'supervisors' * * * in other work contexts," and that the Board has "avoided this logical conclusion" by arbitrarily adopting a special rule in the academic context: that "faculty members are employees because they are professionals who act in their own interests, collectively, and without 'final authority' " (Resp. Br. 33). There is no merit to this line of argument.

A. The definition of "supervisor" in Section 2(11) of the Act requires not only that an individual possess one or more of the enumerated powers, but that such powers be exercised "in the interest of the employer." [1] Similarly, the definition of "managerial em-

[1] See, e.g., *International Union of United Brewery Workers* v. *NLRB*, 298 F.2d 297, 304 (D.C. Cir. 1961), cert. denied, 369 U.S. 843 (1962), concluding that driver-salesmen were not supervisors even though they possessed authority to hire and oversee certain helpers because they exercised their authority in their own interest and not on behalf of the company. The court explained that "[i]n no meaningful sense was their exercise of authority 'in the interest of the employer.' On the contrary, * * * the driver-salesmen were motivated by and were acting in their own interest. Engaging the helpers had the effect of reducing the manual burdens of the driver-salesmen, expediting the service to their route customers, and increasing their potential for higher commissions * * *." See also *NLRB* v. *Master Stevedores Association of Texas*, 418 F.2d 140, 141-143 (5th Cir. 1969), holding that certain employees authorized to hire longshoremen for particular jobs were not supervisors because they did not act as the employer's representatives: "[t]hey were nominated in the first instance by the union from the union membership to fulfill the union's obligation under its contract with the stevedores. There is no showing of any identity of interest between these men and the employers." *Id.* at 143.

ployee," approved by this Court in *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 286-287 (1974), requires not only that an individual be in a position to determine or effectuate management policies, but also that he or she be aligned with and act as a representative of management.[2]

The basic premise of both the supervisory and managerial exclusions is management's right to have its

[2] Contrary to the brief amici curiae of Johns Hopkins University, New York University, Northeastern University, and George Washington University (hereinafter "Johns Hopkins Br."), this Court did not reject the Board's alignment with management test in *Bell Aerospace*. Rather, the Court rejected an interpretation of the managerial exclusion that would have limited it to persons engaged in labor relations activities. The Court concluded that legislative history and prior Board precedent established that persons other than labor relations personnel could have managerial status if closely allied with management. See also *NLRB* v. *North Arkansas Electric Cooperative, Inc.*, 412 F.2d 324, 326 (8th Cir. 1969) (the managerial exclusion rests "on the premise that certain non-supervisory employees are * * * closely allied with management," not on the labor relations function); *Wichita Eagle & Beacon Publishing Co.* v. *NLRB*, 480 F.2d 52, 55-56 (10th Cir. 1973), cert. denied, 416 U.S. 482 (1974) (editorial writers held to be managerial employees because "they were so closely aligned with the newspaper's management in the formulation, determination, and effectuation, not to mention expression, of the newspaper management's policies * * *.")

The brief amicus curiae of the National Society of Professional Engineers (hereinafter, "NSPE Br.") errs in stating that the Court concluded that the buyers in *Bell Aerospace* were managerial employees. The Court remanded the case to the Board for determination of that very question. See 416 U.S. at 295. On remand, the Board found that they did not have managerial status. See 219 N.L.R.B. 384, 385-386 (1975). See also note 3, *infra*.

representatives accountable solely to it and not to have their loyalty divided with a union. When an individual, though acting on matters of importance to management, does not function in a capacity in which he is expected to conform to management policies and is not judged according to his or her effectiveness in executing those policies (which is the case with many "professional employees"), the danger of divided loyalty does not exist. There is therefore no reason to exclude such individuals from the protections of the Act; indeed, to do so would be contrary to Congress' specific intention to extend statutory coverage to a broad spectrum of "professional employees" (including medical personnel, lawyers, accountants, engineers, scientists, and architects) who exercise independent judgment rather than executing managerial policies. See the Board's principal brief (hereinafter, "Board Br.") at 24-33, 45-48.

B. The Board has applied this principle consistently in determining supervisory or managerial status under the Act. As the Board explained in *General Dynamics Corp.*, 213 N.L.R.B. 851, 857-858 (1974), "managerial status * * * is reserved for those who are closely aligned with management as true representatives of management"; the Board added that "managerial authority is not vested in professional employees merely by virtue of their professional status, or because work performed in that status may have a bearing on company direction." See also *Bell Aerospace, A Division of Textron, Inc.*,

219 N.L.R.B. 384, 385-386 (1975); *Western Sample Book and Printing Co.*, 209 N.L.R.B. 384, 385 (1974) (finding no supervisory or managerial status since the employee was not "closely allied with management or * * * intimately involved in effectuating [the employer's] policies, but was at most a senior experienced employee"); *Electric Wiring, Inc.*, 193 N.L.R.B. 1059, 1062-1063 (1971) (holding that an employee did not have managerial status even though he did some work with managerial characteristics, since the rest of his time was spent working "in the same way and under the same conditions as [the employer's] other employees. This slight distinction is not sufficient * * * to identify his interest with th[at] of * * * management"); see also *Consolidated Papers, Inc.*, 179 N.L.R.B. 165, 166 (1969), and the cases cited in Board Br. 27.

The cases cited by the University (Resp. Br. 34-35) are not to the contrary. For example, in *Sutter Community Hospitals of Sacramento*, 227 N.L.R.B. 181, 193 (1976), which held that a clinical specialist was a managerial employee, the Board noted that in exercising her discretion the specialist acted in the interest of management. The Board also emphasized that:

> managerial status is conferred only upon those in executive-type positions whose interests are closely aligned with management as true representatives of management. Accordingly, we have held that professional employees are not the same as management employees merely because their professional competence necessarily in-

> volves a consistent exercise of discretion and judgment in a manner which may affect an employer's business direction or establish policy.

Similarly, in *Peter Kiewit Sons' Co.*, 106 N.L.R.B. 194, 196 (1953), the excluded personnel, who planned and executed indoctrination programs for both supervisors and employees, were deemed to be managerial because they were closely "allied with management." [3]

C. The Board's conclusion that the faculty members here involved are not managerial or supervisory employees rests on the same principle.[4] While the

[3] The University correctly notes that the Board has found personnel such as buyers, expediters, investigators, production schedulers and lecturers to be managerial employees, citing *Spicer Mfg. Corp.*, 55 N.L.R.B. 1491, 1498 (1944); *American Locomotive Co.*, 92 N.L.R.B. 115, 116-117 (1950); *Electric Controller & Mfg. Co.*, 69 N.L.R.B 1242, 1246 (1946); *Westinghouse Electric Co.*, 100 N.L.R.B. 420, 423 (1952); *Firestone Tire and Rubber Co.*, 112 N.L.R.B. 571, 573 (1955); and *Peter Kiewit Sons' Co.*, 106 N.L.R.B. 194, 196 (1953). However, when they have not been shown to be closely aligned with management, the Board has concluded that such personnel are not managerial employees. See, *e.g.*, *Bell Aerospace, A Division of Textron, Inc.*, 219 N.L.R.B. 384, 385-386 (1975), on remand from 416 U.S. 267 (1974) (buyers); *Lockheed-California Co.*, 217 N.L.R.B. 573, 574-575 (1975) (buyers); *Dynalectron Corp.*, 231 N.L.R.B. 1147, 1149 (1977) (buyers and expediters); *Monarch Rubber Co.*, 129 N.L.R.B. 482, 486 (1960) (expediters); *Dow Jones & Co.*, 142 N.L.R.B. 421, 427 (1963) (personnel interviewers); *National Cash Register Co.*, 95 N.L.R.B. 27, 32 (1951) (instructors).

[4] Contrary to the contention of the University (Resp. Br. 50), the Board's "interest/alignment" analysis was not a mere "thought * * * added to the *C.W. Post* rationale" three years after that April 1971 decision (189 N.L.R.B. 904). In February 1972, the Board issued its decision in *Adelphi University*, 195 N.L.R.B. 639, 648, in which it discussed in detail its approach to this issue, explaining that faculty members who participate in university governance "are not advised to advocate management's interests in making their decisions, nor are they advised that they are management's representatives in making them." The "interest/alignment" analysis has been central to the Board's approach in faculty cases following *Adelphi University*. See Board Br. 40-41.

University's faculty members, like those at most other private universities and colleges, participate in decision-making regarding faculty promotion and hiring, curriculum, and other matters of academic policy, they are not required to, and do not, serve as "representatives of management" in so doing.[5] As

[5] When faculty members actually serve as representatives of management, the Board consistently has concluded that they are managerial or supervisory personnel. Thus in *University of Vermont*, 223 N.L.R.B. 423, 426 (1976), the Board excluded department chairmen as supervisors, observing that "[t]heir performance is evaluated by the dean, based primarily upon their administrative performance [and] many of them have risen to higher administrative positions in the University * * *. In some cases they may do little or no teaching [because they] spend considerable time participating in numerous administrative meetings in their respective colleges and with higher authorities." See also *University of Miami*, 213 N.L.R.B. 634, 637 (1974); *Syracuse University*, 204 N.L.R.B. 641, 642 (1973). In contrast, the Board found that the department chairmen in the present case were not supervisors or managers because, although they possess responsibility for faculty hiring, promotion, and tenure, they "act primarily as instruments of the faculty in these matters" (Pet. App. 74a). Accord, *Northeastern University*, 218 N.L.R.B. 247, 252 (1975); *Trustees of Boston University* v. *NLRB*, 575 F.2d 301, 306 (1st Cir. 1978), petition for cert. pending, No. 78-67 (department chairmen are not supervisors because they act " 'in the interest' of the faculty, not of the employer"); *University of Detroit*, 193 N.L.R.B. 566, 568

acknowledged by the University, faculty recommendations embody a "clearly 'independent judgment'" on what is professionally desirable (Resp. Br. 41). Accordingly, faculty members are evaluated by the University on the basis of the quality of their teaching and research and the extent of their participation in university affairs, not on the compatibility with administrative policy of their recommendations or advice.[6] An over-arching administration reviews faculty proposals and renders its final decision on the basis of university-wide considerations and institutional policies. While the ongoing process of discussion between the vice-presidents and

(1971) (department chairmen are not supervisors because they "represent[] the faculty at university senate meetings"). Compare *New York University*, 205 N.L.R.B. 4, 9 (1973), with *New York University*, 221 N.L.R.B. 1148, 1149 (1975) (modifying original decision on the supervisory status of department chairmen in light of new evidence).

[6] The University misapprehends the point of the Board's conclusion that the faculty acts in its own interest rather than the interest of the university administration. The issue is not, as the University suggests (Resp. Br. 51), whether the faculty acts on personal as opposed to altruistic grounds. The relevant consideration is that faculty members—unlike other personnel who have been found to be managerial employees or supervisors in the past (see notes 1 & 3, *supra*)—do not function in a capacity in which they are required to conform to management policies in rendering their decisions and offering advice. The essential purpose of the supervisory and managerial exclusions—protection of the employer's legitimate expectation of undivided loyalty from its representatives—would not be served by excluding from the coverage of the Act those persons who concededly are entitled to exercise wholly independent professional judgment.

the deans usually enables them to avoid situations in which the administration must "veto" faculty proposals, the vice-presidents do have the power, and have exercised it, to overrule proposals that conflict with institutional requirements. See Board Br. 6-17.

The University argues that it is "ludicrous to speak of the faculty versus the 'management' of a great university" (Resp. Br. 39)—that "'the faculty is the school'" (Resp. Br. 35 n.17). However, this line of argument—suggestive of an idealized conception of a university based on a medieval model—ignores the administrative hierarchy within the University and considers the faculty member's role only in relation to his own peer group and individual school. It fails to take account of the essential role of the administrators, such as the Vice-President for Academic Affairs, the Vice-President for Business Affairs, and the President, who are responsible for governing the University as a whole. Nor are the differing interests of the faculty and the administration obliterated by the fact that "the Yeshiva faculty's judgments are almost always accepted by the administrators with whom they share the University's governance" (Resp. Br. 52-53). As pointed out on pages 50-51 of our main brief, agreement between the administration and the faculty is the product of a continuous process of discussion, informal negotiation, and compromise.[7] The persuasive-

[7] As noted in N. Demerath, R. Stephens & R. Taylor, *Power, Presidents, and Professors* 25, 30 (1967), it is frequently necessary for the faculty to assert its own interests in the face of the opposing objectives of the university administra-

ness of the faculty and the respect of the administration for the views of this essential portion of the University's personnel do not logically compel an inference by the Board that the faculty has acted as management's representative in formulating their views.

The University is on no firmer ground in maintaining that the record shows that faculty members are judged by the administration based on the content of their recommendations (Resp. Br. 39). The evidence cited by the University shows only that, at the Stern and Ferkauf schools, one factor relevant to promotion is the professor's record of activity and service in the university (A. 231, 238, 1448); nothing suggests, however, that the direction or thrust, as opposed to the professional competence, of a professor's recommendations or decisions has any impact whatsoever on his or her promotion or compensation. Indeed, the Ferkauf Guidelines for promotion identify the quality of teaching, research and publications as the primary criteria for promotion (A. 1447-1448). Other portions of the record cited by the University show that on occasion certain

---

tion. Faculty participation in university governance is participation "in behalf of their constituencies, * * * to modify, tame, and curb the powers of the full-time administrators which derive from the corporate authority of the institution, as interpreted by [the] board [of trustees] and president. * * * [P]rofessors * * * have felt the need for a policy voice in order to protect freedom of inquiry and teaching, and the recognition of professional competence, and they have insisted on having such a voice."

faculty recommendations have been accepted by the administration over conflicting recommendations from the dean (A. 191, 266-269, 379-380); that the deans in several schools generally accept and sometimes feel bound by faculty recommendations concerning tenure, hiring and curriculum (A. 231-232, 248-249, 274, 328); and that administrators ranking higher than the deans sometimes solicit faculty recommendations on tenure and renewal of appointments (A. 419, 537-538). The record does indeed show that the administration is often willing to follow the recommendations of the faculty in deference to its professional judgment and expertise (as would ordinarily be expected of most employers of professional employees). The record nowhere suggests that the faculty is in any way accountable to the administration for the substance of its recommendations.

The Statement of Principles of the Ferkauf Faculty Government By-Laws (A. 1427-1428) underscores the accuracy of the Board's finding that there is a university management separate and distinct from the faculty.[8] While noting that "[p]articipa-

---

[8] In this connection, the University misconstrues (Resp. Br. 46) the references in the Board's opinion to the collective nature of faculty participation in the governance system. The Board's point (see Board Br. 40-41 n.35) is not that the collective exercise of authority necessarily precludes a finding of supervisory or managerial status. Rather, the faculty's collegial voice fortifies the inference that its recommendations embody the views of the rank and file, not the views of the administrative chain of command. In observing that authority is exercised by the entire faculty body, rather than by an in-

tion in college government by the faculty cultivates a sense of responsibility and nourishes the combination of thought, feeling, and action without which the college enterprise cannot be fulfilled as it should" and that "participation in the governance of an institution of higher learning is a necessary responsibility of the academic profession," the Preamble at the outset declares (A. 1427):

> Since the Board of Regents of the New York State Education Department has granted the charter to the University's Board of Trustees and the President, full responsibility for decisions relating to the University and its constitutent parts resides with the Board of Trustees and the President. Where specific powers and responsibilities have been delegated to the Dean of the Ferkauf Graduate School, he as the chief educational officer of the school, is administratively responsible for the programs of the school.

---

dividual or a relatively small group of persons charged with overseeing a broader body of employees, the Board's decision underscores the common-sense differences between the University's faculty and persons traditionally deemed to be supervisors or managers.

Similarly, the Board has not held, and we do not suggest, that the fact that ultimate authority rests with a board of trustees is dispositive of the faculty's employee status. Rather, the locus of ultimate and delegated authority in the administration has been stressed to show that American colleges and universities are not, as is often argued (Resp. Br. 35 n.17; NSPE Br. 20; Johns Hopkins Br. 29-30), self-governing communities of scholars. See Board Br. 36-37 & n.30.

II.

The University objects (Resp. Br. 30, 54-58) to our demonstration (Board Br. 45-48) that collective bargaining is compatible with the governance of universities and the economic realities of academic employment, claiming that such an analysis has no relevance to the issue at bar.[9] We do not, of course, quarrel with the proposition that individuals who would otherwise be deemed managerial or supervisory personnel do not become statutory employees merely because they desire to belong to a union or because unionization would be consistent with prevailing practices at the place of employment. However, a showing that inclusion of faculty members within the coverage of the Act would further statutory purposes, and that university faculty members share the economic concerns that prompt working people generally to seek the benefits of collective bargaining, buttresses the preceding demonstration that faculty members satisfy the legal standards traditionally utilized in determining "employee" status (and exemplify the congressional purpose in extending the Act's protection to professional employees). As this Court noted in *Allied Chemical Workers* v. *Pittsburgh Plate Glass Co.*, 404 U.S. 157, 167 (1971), "[t]he term 'employee' 'must be understood with reference to the purpose of the Act and the facts involved in the

---

[9] In contrast, amici strenuously contend that the Board's position cannot be sustained because university governance is incompatible with collective bargaining. Johns Hopkins Br. 8-16; NSPE Br. 19-32.

economic relationship'" (quoting *NLRB* v. *Hearst Publications*, 322 U.S. 111, 129 (1944)). Most pertinently the Court added that "[i]n doubtful cases resort must still be had to economic and policy considerations to infuse § 2(3) with meaning." 404 U.S. at 168. See also *Fibreboard Paper Products Corp.* v. NLRB, 379 U.S. 203, 211-212 (1964).

While university faculty members have many characteristics that distinguish them from industrial "working men," their employment situation is comparable to that of the professional medical personnel, lawyers, accountants, and scientists that Congress intended to embrace within the Act. Moreover, faculty members share most of the economic concerns of ordinary working people—concerns that justify our characterization of them as "rank and file" employees. Faculty members have the same interests as other working people in obtaining pay raises and improvements in the terms and conditions of their employment through collective bargaining. They are concerned with compensation,[10]

[10] In recent years, the economic position of college and university faculty members has substantially eroded. Adjusting for inflation, the average professional salary has declined every year since the 1973-1974 academic year. Between the 1972-1973 and 1978-1979 academic years, the average salary in "real" dollars declined by 13.6%. See W. Hansen, *An Era of Continuing Decline: Annual Report on the Economic Status of the Profession, 1978-79*, 65 Academe: Bulletin of the AAUP 319, 325 (Table 4) (Sept. 1979). This steady decline has been felt across all professional ranks, from instructor to full professor (*id.* at 321, Table 1). The consequences of this large decline in faculty salaries are varied, but commentators have noted that such conditions produce "the likely hardening of attitudes about the need to organize more effectively to promote the economic interests of faculty members. * * * [T]here is likely to be a greater push for collective bargaining" (*id.* at 329). See also H. Bowen, *Academic Compensation: Are Faculty and Staff in American Higher Education Adequately Paid?* 65-67, Table A (Teachers Insurance and Annuity Association 1978), showing a real decline of 7% in salaries and 5% in total compensation between 1972-1973 and 1976-1977.

The faculty at Yeshiva has not fared well economically even relative to the faculties at comparable private universities. For example, the most recent figures from the Hansen survey show that while the average compensation package paid to full professors in comparable institutions is $37,000, the average full professor at Yeshiva receives $30,400; the average salary in comparable institutions is $31,100, but $27,000 at Yeshiva (W. Hansen, *supra*, at 334, 348). And while the average salary of a full professor in schools similar to Yeshiva has increased 6.2% in dollar amount in the last two years, the increase at Yeshiva has been only 2.6% (*id.* at 333, 348).

job security,[11] and the conditions of academic employment.[12] Current conditions in the over-crowded em-

[11] The American Association of University Professors (which represents many faculty bargaining units) has recently noted a trend toward unilateral reduction of faculty appointments to tenured positions. See the report of the Subcommittee of AAUP Committee A on Academic Freedom and Tenure, *On Full-Time Non-Tenure-Track Appointments*, 64 A.A.U.P. Bull. 267-273 (Sept. 1978). And see *Academic Freedom and Tenure: University of Detroit*, 64 A.A.U.P. Bull. 36 (Mar. 1978) (discussing the discharge of 40 professors, 29 tenured, for economic reasons). The assertion of amici (Johns Hopkins Br. 13-15) that collective bargaining poses a potential threat to the tenure system ignores the fact that erosion of that system is a principal motivation for faculty members to seek union representation.

[12] Collective bargaining has assisted faculty members in their efforts to resist curtailment of traditional prerogatives. See, *e.g.*, R. Nielsen & I. Polishook, *Collective Bargaining*

ployment market for college professors, and efforts by university administrators to curtail rising costs, intensify the danger of unemployment or non-promotion for faculty members, and diminish the possibility of obtaining substantial improvements in the conditions of academic employment.[13] Nothing in their responsibilities as educators precludes faculty members from attempting to resolve their concerns about the terms and conditions of employment through collective bargaining.[14]

---

and Beyond, The Chronicle of Higher Education 7 (May 21, 1979):

> It is not unusual to find similarities between faculty "handbooks" or "guidelines" formerly promulgated by academic management and college contracts, with the one major difference being the enforceability of the contract that replaced the president's prerogative. In this sense, collective bargaining is not new to the campus. What does occur—when the informal structure fails to work—is that collective bargaining becomes the means whereby the faculty secure what management has said, all along, is theirs.

[13] For an overview of the severe economic pressures currently facing college faculty members, see W. Hansen, *supra*, at 327. See also the brief amicus curiae of the American Association of University Professors 2-6. Curtailment of academic or research programs in response to such pressures can, of course, severely affect the terms of employment—or even the continued existence of employment—of particular faculty members.

[14] The University suggests that assertion of economic concerns by faculty members can foster an "adversary" relationship on campus and thereby threaten the academic environment (Resp. Br. 55). That, however, is a question apart from the issue presented here. Regardless of the scope of the National Labor Relations Act, faculty members are free to assert their collective interests (through, for example, faculty welfare committees or faculty senates) and thereby confront administrative policies that are contrary to their economic welfare. The National Labor Relations Act merely introduces into this process of economic confrontation the requirements of orderly bargaining. See *Ford Motor Co.* v. *NLRB*, No. 77-1806 (May 14, 1979), slip op. 10: " 'The basic theme of the Act was that through collective bargaining the passions, arguments, and struggles of prior years would be channeled into constructive, open discussions leading, it was hoped, to mutual agreement.' * * * The assumption is that this is preferable to allowing recurring disputes to fester outside the negotiation process until strikes or other forms of economic warfare occur."

While the University disputes the relevance of our contention that the position of faculty members is analogous in many respects to that of other workers, it does not hesitate to argue that the fact that the "industrial analogy is imperfect" proves that Congress did not intend to "treat professors as 'employees' " (Resp. Br. 36-38; see also NSPE Br. 21-22). The industrial analogy concededly is not perfect. However, the University's model of a community of scholars identical with, and pervasively in control of, the academic enterprise is further from the mark. That model cannot be squared with the University's repeated assertion that dangers would "hover in the wings" if faculty members were permitted to assert their interests through the collective bargaining process (Resp. Br. 31, 55-56). On the one hand, the University argues that faculty members are merged with itself, having no separate interests. On the other, the University maintains that it needs to be sheltered from the faculty's assertion of economic

concerns through collective bargaining. If the University and faculty did not have the separate interests of employers and employees, which the Board found in this case, there would be no occasion to protest the bargaining relationship that is recognized when parties negotiate over the terms and conditions of employment.[15]

---

[15] Contrary to the assertion in Johns Hopkins Br. 10-11, recognition that faculty members are employees under the Act does not mean that existing faculty bodies (such as faculty senates) violate Section 8(a)(2) of the Act, 29 U.S.C. 158(a)(2). Section 8(a)(2) makes it an unfair labor practice for an employer "to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it * * *." Section 8(a)(2) does not, however, bar all forms of employer assistance to labor organizations. See, *e.g.*, *Sunnen Products, Inc.*, 189 N.L.R.B. 826, 828 (1971); *Ladish Co.*, 180 N.L.R.B. 582, 585 (1970). Thus, in *Duquesne University*, 198 N.L.R.B. 891 (1972), the Board recognized that university assistance to a nonprofessional employee committee in the form of free use of university premises, meetings on university time, and university subsidization of a committee newsletter, did not in itself constitute unlawful assistance where the university "freely makes available its facilities, time, and services to any desirous organization." The Board also noted that even if employer assistance reaches an unlawful level, the employee organization need not be disestablished unless it has been "dominated" by the employer. *Id.* at 893. Moreover, employer domination does not arise merely because employer representatives are included in the organization. See *Hertzka & Knowles* v. *NLRB*, 503 F.2d 625, 626, 630-631 (9th Cir. 1974), cert. denied, 423 U.S. 875 (1975). See also *NLRB* v. *Northeastern University*, No. 78-1222 (1st Cir. June 26, 1979), slip op. 8, rejecting a Section 8(a)(2) challenge to an organization of employees established by a university president, and noting that the courts have appropriately "recogniz[ed] some

---

room for management-employee cooperation short of domination * * *." The Act does not prohibit organized collective endeavor by professional employees (apart from and in addition to collective bargaining) in performance of the collective professional aspects of their employment responsibilities. And the Board has never held that faculty organizations infringe Section 8(a)(2) where such bodies have been formed without regard to union organization efforts. The only case in which a faculty senate was found to be in violation of Section 8(a)(2) is *Stephens Institute*, 241 N.L.R.B. No. 71 (1979), where the senate was established by the college administration in response to, and as a weapon against, a union organizing campaign. Slip op. 32-33. See generally Finkin, *The NLRB in Higher Education*, 5 Toledo L. Rev. 608, 647-648 (1974).

For the foregoing reasons and the reasons stated in the Board's principal brief, the judgment of the court of appeals should be reversed.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

LAWRENCE G. WALLACE
Deputy Solicitor General

STEPHEN M. SHAPIRO
Assistant to the Solicitor General

JOHN S. IRVING
General Counsel

JOHN E. HIGGINS, JR.
Deputy General Counsel

ROBERT E. ALLEN
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

LINDA SHER
Assistant General Counsel

DAVID S. FISHBACK
Attorney
National Labor Relations Board

SEPTEMBER 1979

☆ U. S. GOVERNMENT PRINTING OFFICE: 1979 300970 82

Supreme Court, U. S.
FILED
MAY 7 1979
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Intervenor-Petitioner,

vs.

YESHIVA UNIVERSITY,
Respondent.

BRIEF AMICUS CURIAE OF THE AMERICAN FEDERATION OF TEACHERS (AFL-CIO).

LAWRENCE POLTROCK,
General Counsel,
American Federation of Teachers
(AFL-CIO),
134 North LaSalle Street,
Chicago, Illinois 60602,
(312) 236-0606.

Of Counsel:
LAWRENCE A. POLTROCK,
MICHAEL RADZILOWSKY,
DEJONG, POLTROCK & GIAMPIETRO,
134 North LaSalle Street,
Chicago, Illinois 60602,
(312) 236-0606.

Gunthorp-Warren Printing Company, Chicago • Financial 6-6565 86

INDEX.

PAGE

Interest of Amicus 1

Issues Presented 2

Introductory Statement of Facts 3

Argument 6

I. Full-Time Faculty Members at Yeshiva University Are Professional Employees Entitled to the Protection of the NLRA 6

A. Full-Time Faculty Members Are Neither Supervisory Nor Managerial Employees 6

B. The NLRB's Determination to Take Jurisdiction Over Collective Bargaining at Not-For-Profit Educational Institutions Is Consistent with Its Congressional Mandate 12

II. Collective Bargaining and Joint Governance Are Compatible and the Coordination of These Structures Serves as the Best Method for Professional Educational Employees to Meet the Economic and Academic Challenges They Face 16

Summary 18

CITATIONS.

Cases.

Adelphi University, 195 N. L. R. B. 639 (1972) 9, 12
Boston University, 228 N. L. R. B. 1008 (1977) enforced, 575 F. 2d 301 (1st Cir. 1978) Petition for Cert. pending No. 78-67 9
C. W. Post Center of Long Island University, 189 N. L. R. B. 904 ..... 13, 15
College of Pharmaceutical Services, 197 N. L. R. B. 959 (1972) 9
Cornell University, 183 N. L. R. B. 329 (1970) 12
Farleigh Dickinson University, 205 N. L. R. B. 673 (1973) 9
Fordham University, 193 N. L. R. B. 134 (1971) 9, 13, 15
General Dynamics Corp., 213 N. L. R. B. 851, (1974) 8, 10, 15
Kendall College, 228 N. L. R. B. 1083 (1977) 9
Kendall College v. NLRB, 570 F. 2d 218 (1977) 14, 15
Loretto Heights College, 205 N. L. R. B. 1134 (1973) ... 9
Lutheran Hospital of Milwaukee, Inc. v. NLRB, 564 F. 2d 208 (7th Cir. 1977) 15
Marine Engineers v. Interlake Steamship Co., 370 U. S. 173, 179-80 (1962) 8
New York University, 205 N. L. R. B. 4 (1973) 9
NLRB v. Bell Aerospace Co., 416 U. S. 267 (1974) 7
NLRB v. Boston College, 525 F. 2d 301 (1977) 18
NLRB v. Metropolitan Life Insurance Co., 405 F. 2d 1169, 1172 (2nd Cir. 1968) 11
NLRB v. Stark, 525 F. 2d 422 (1975) 11

NLRB v. Weingarten, Inc., 420 U. S. 251, 266 Supreme Ct. 958, 968, 43 L. Ed. 2d 171 (1975) 15
NLRB v. Wentworth Institute, 515 F. 2d 556 (1st Cir., 1975) 8
NLRB v. Yeshiva, 582 F. 2d 686 (2nd Cir., 1978) 4
Palace Laundry Dry Cleaning, 75 N. L. R. B. 320 (1974) . 7
Skidmore, Owens & Merrill, 192 N. L. R. B. 920 (1971) .. 15
S. W. Post Center Long Island University, 189 N. L. R. B. 109 (1971) 13
Syracuse University Law School, 204 N. L. R. B. 641 (1973) 9
Westinghouse Electric Corp. v. NLRB, 424 F. 2d 1151 cert. denied, 400 U. S. 831 8
University of San Francisco Law School, 207 N. L. R. B. 12 (1973) 9
Wentworth University, 210 NLRB 345 enforced 515 F. 2d 550 (1st Cir., 1975) 9
Yeshiva University, 221 N. L. R. B. 1053 3

Statutes.

National Labor Relations Act, 29 U. S. C. 151, et seq:
Section 2(3), 29 U. S. C. 152(3) 11
Section 2(11), 29 U. S. C. 152 (11) 10, 15
Section 2(12), 29 U. S. C. 152(12) 7
Section 8(a)(1), 29 U. S. C. 158(a)(1) 11
Section 8(a)(2), 29 U. S. C. 158(a)(2) 11
Section 9(b), 29 U. S. C. 159(b) 14
Pub. L. 93-360, 88 Stat. 395 (1974) 5

Miscellaneous.

Begin, "Faculty Governance and Collective Bargaining: An Early Appraisal, *XLV Journal of Higher Education*, No. 8, Nov. 1974, p. 583 16

Kahn, "The NLRB and Higher Education: The Failure of Policy-making through Adudication," 21 *UCLA* 63 (1973) 13

Morland, "Collective Bargaining and Collegiality: A Pennsylvania View," 9 *Rutgers-Camden Law Journal*, 699 (1977) 17

Wall Street Journal, September 29, 1978 Article by John Benzel 12

H. R. Conf. Rep. No. 510 80th Congress, First Session 36 (1947) 13

120 Congressional Record 12938 (1974), Reprinted in Legislative History of Non-Profit Hospitals under the NLRA (1974) (Committee Print by Sub-Committee on Labor of Senate Committee on Labor and Public Welfare.) 14

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Intervenor-Petitioner,

vs.

YESHIVA UNIVERSITY,
Respondent.

BRIEF AMICUS CURIAE OF THE AMERICAN FEDERATION OF TEACHERS (AFL-CIO).

INTEREST OF AMICUS.

The American Federation of Teachers (AFL-CIO), is an organization of over 1,000 affiliate locals with a total membership in excess of 450,000 members. Its affiliate locals have established bargaining relationships with a large number of school districts.

Since 1967, AFT affiliate locals at more than 240 institutions of higher education have established collective bargaining relationships. The outcome of the instant litigation could have impact on the rights of the members of the American Federation of Teachers at institutions of higher education.

Although the decision of the Court of Appeals states that the decision is made on the particular facts before the Court, a review of the factual finding of the NLRB shows that the role of the faculty at Yeshiva University is quite similar to that at many institutions of higher education with regard to faculty input into decision-making. A decision affirming the holding of the Court of Appeals could therefore have a major negative impact on other institutions where a collective bargaining relationship exists or could be developed.

ISSUES PRESENTED.

Whether faculty members who participate in governance structures at institutions of higher education are managerial or supervisory employees excluded from the protections of the National Labor Relations Act.

INTRODUCTORY STATEMENT OF FACTS.

This case is before this Court on appeal from the decision of the Second Circuit Court of Appeals denying enforcement of an NLRB order directing Yeshiva University to bargain with a duly certified unit of its academic professional employees, commonly known as the Yeshiva University Faculty Association.

The proceedings in this matter were initiated by a petition filed with the NLRB on October 30, 1974 by the Yeshiva University Faculty Association (hereinafter referred to as "Union"), for a representation election for certain full-time academic employees. The proposed unit included full-time faculty appointed to the positions of Professor, Associate Professor, Assistant Professor, or Instructor, with full-time teaching loads or equivalents, but excluded part-time faculty and other specific categories of employees not germane to the issues before this Court.

Hearing on the matter was conducted on 21 dates from November 26, 1974 to May 6, 1975. At the first hearing, the entire record of prior representation proceedings, consisting of the transcript of nine days of hearings and numerous exhibits, was received into evidence and incorporated into the record.

On December 5, 1975, the NLRB issued its decision directing that an election be held. *Yeshiva University*, 221 N. L. R. B. 1053. An election was held December 16 through 20, 1976. The members of the unit voted 91 to 50 for representation by the Union. The NLRB certified the Union as the exclusive bargaining agent on December 29, 1976.

On February 2, 1977, the Union filed charges of violation of Sections 8(a)(1) and 8(a)(5) of NLRA by Yeshiva University (hereinafter referred to as "University"). The charges were based on the University's refusal to recognize and bargain with the Union. The University admitted its refusal to bargain but

asserted that the certification of the Union by the NLRB was improper because members of the bargaining unit were managerial and supervisory employees. Furthermore, the University asserted for the first time that certification of a unit which did not include part-time faculty was improper without the NLRB first conducting a rule-making proceeding pursuant to the Administrative Procedures Act.

On April 12, 1977, the General Counsel for the NLRB moved for summary judgment affirming the Union's charges. The Board granted the motion for summary judgment on August 24, 1977, finding that the University had violated 8(a)(1) and 8(a)(5) of the NLRA by its conduct. The NLRB petitioned the Second Circuit Court of Appeals for an Order to compel the University to bargain with the Union. The Second Circuit Court of Appeals declined to affirm the decision of the NLRB on the asserted basis that the employees in the bargaining unit were supervisory and managerial employees. *NLRB* v. *Yeshiva*, 582 F. 2d 686 (2d Cir., 1978).

The NLRB and intervenor Union filed Petitions for Certiorari which were granted on February 21, 1979.

In deference to the administrative expertise of the NLRB, we will rely on their Statement of Facts for the factual basis of this controversy. We would, however, point out that the Second Circuit Court of Appeals in its opinion saw fit to make its own separate factual findings on the record below without any discussion of the reasons for disturbing the finding made by the NLRB after extensive proceedings. The import of the Second Circuit's finding would indicate that in most areas of decision-making, the faculty at Yeshiva, acting as a collective body, made decisions which were unchallenged by the administration of the University.

The finding that the faculty at Yeshiva University had total control of decision-making must have profoundly shocked the faculty who had found it necessary to elect a collective bargaining representative. Neither the Yeshiva faculty nor the

faculties of other institutions of higher education have the kind of control that the Second Circuit Court suggests. We would urge this Court to accept the factual findings of the NLRB rather than the revisions offered by the Second Circuit because the Second Circuit acted improperly in substituting its factual finding for those of the administrative agency.

Based on the NLRB's findings, it can be seen that the role of the faculty at Yeshiva is consistent with that at numerous educational institutions over which the NLRB has asserted jurisdiction.

There now exist approximately 600 campuses covered by collective bargaining agreements between faculties and institutions of higher education. The experience at these institutions demonstrates that collective bargaining works. It has not destroyed the institutional governance structures but serves in a cooperative role in the resolution of problems. In light of Congressional action extending jurisdiction of the NLRB over professional employees and the legislative history of the Hospital Amendments, Pub. L. 93-360, 88 Stat. 395 (1974), assertion of jurisdiction over academic employees is clearly within the province of the NLRB and should be upheld.

ARGUMENT.

I.

FULL-TIME FACULTY MEMBERS AT YESHIVA UNIVERSITY ARE PROFESSIONAL EMPLOYEES ENTITLED TO THE PROTECTION OF THE NLRA.

A. Full-Time Faculty Members Are Neither Supervisory Nor Managerial Employees.

The Court of Appeals agreed with the findings of the NLRB that full-time faculty at Yeshiva University are professional employees as defined in Section 2(11) of the NLRA. It maintained, however, that the faculty ran the school in that they made recommendations which the University saw fit to implement. They cited to such items as the role of faculty in determining the courses to be taught, the assignment of courses to teachers and teaching load, and the process of initial recommendations on hiring and tenure.

The factual findings of the NLRB clearly show that faculty input into the above areas does not follow a traditional industrial model which would confer supervisory or managerial status on the faculty. Full-time faculty do meet and make resolutions on a wide range of professional and institutional concerns. Faculty members also serve on joint committees on subjects ranging from grading practices to faculty welfare. The faculty welfare committees at several of the schools of the University have in fact negotiated with the University administration on behalf of the full-time faculty concerning such traditional collective bargaining subjects as salary scales. In all of these activities, however, the faculty both individually and collectively represent the position of the faculty, not the overall position of the University administration. These committees do not

have the ultimate decision-making authority. They merely set forth the position of these professionals from the perspective of their educational expertise. The final decision-making is entrusted to the University's Board of Trustees, acting through the University President and the Deans of the various colleges. It is these officials who must make the decisions of reconciling the educational goals and institutional needs with available financial resources. It is these officials whose function it is to perform the administrative institutional tasks.

Faculty members are hired to teach and conduct research. The input they offer into the governance structure represents their consensus on educational goals. The University's President has the power to act on the University's behalf in overruling any of the recommendations made by the various committees.

The faculty does not control the University. The structure of the University is not the idealized model of Cambridge or Oxford, where groups of scholars band together to render educational services and defer only to their own cooperative authority. Rather, it is a corporate structure with a governing body, i.e., Board of Trustees, which decides to offer instruction and then hires the faculty to provide it. It is true that as a result of specialization of knowledge and complexity of searching out faculty, the administrative branch will in most cases rely on the faculty for recommendations concerning their peers. Such recommendations, however, are not binding and do not go to the essence of the role of the faculty at the institution. The faculty is there to teach and perform research. It is for these functions that they are retained and receive compensation.

Congress has expressly acted to include "professional employees" in the NLRA (Section 2[12] NLRA, 29 U. S. C. 152 [R]). At the time of the inclusion of professional employees, Congress realized that the definition of a professional employee overlaps with functions that have traditionally been defined as supervisory and managerial. *Palace Laundry Dry Cleaning*, 75 N. L. R. B. 320, 323 n.4 (1947) and *NLRB* v. *Bell Aerospace*

Co., 416 U. S. 267, 286-287 (1974). The NLRB has been entrusted by Congressional mandate and long experience with the delicate task of reconciling these concepts. *Marine Engineers* v. *Interlake Steamship Co.*, 370 U. S. 173, 179-180 (1962), *Westinghouse Electric Corp.* v. *NLRB*, 424 F. 2d 1151 (7th Cir., 1970). As our discussion below will show, the NLRB has consistently held that the definition of "supervisory" and "managerial" employees involves not a mechanical application of a test but an analysis of the functions performed by the employees to see if their roles are so aligned with the administration of the institution as to require exclusion from the protection of the NLRB. Only those employees whose function it is to operate the institution should be excluded.

As the Board explained in *General Dynamics Corp.*, 213 N. L. R. B. 851, 857 (1974):

> "[M]anagerial status is not conferred upon rank-and-file workers, or upon those who perform routinely, but rather is reserved for those in executive-type positions, those who are closely aligned with management as true representatives of management. Work which is based on professional competence necessarily involves a consistent exercise of discretion and judgment, else professionalism would not be involved. . . . A lawyer or a certified public accountant working for, or retained by, a company may well cause a change in company direction, or even policy, based on his professional advice alone, which, by itself would not make him managerial."

Certainly the faculty at Yeshiva, as at most institutions of higher learning, expresses its views on issues within its expertise. These opinions, even if respected by the University, are subject to the ultimate authority of the Board of Trustees which through its administrative officers deals not only with the educational policy aspects of educational decisions but with economic and institutional concerns in arriving at an ultimate decision. That fact was recognized by the Court of Appeals for the First Circuit in *NLRB* v. *Wentworth Institute*, 515 F. 2d 556 (1st

Cir., 1975), where the court stated "the *trustees*, who have ultimate authority, as a matter of course delegate to the faculty or its representatives varying amounts of authority and influence over educational policy and the governance of the institution". Such delegation did not give rise to managerial status.

The NLRB has dealt with the assertion that faculty are managerial or supervisory employees in numerous representation proceedings. In one of its early decisions in this area, *Adelphi University*, 195 N. L. R. B. 639, 648 (1972) the NLRB stated:

> "In this case . . . the ultimate authority does *not* rest with the peer group but rather with the board of trustees. Thus, although the facts indicate that much respect is paid by the trustees to the recommendations of the collegial body, it is equally clear that the trustees reserve the ultimate authority for themselves. It is also clear that the board of trustees, even if it had such power, has not attempted to convert the committees into managerial or supervisory entities. They are not advised to advocate management's interests in making their decision, nor are they advised that they are management's representatives in making them."

This formulation of NLRB policy has been applied in numerous representation proceedings involving faculty bargaining units. See e.g., *Syracuse University Law School*, 204 N. L. R. B. 641 (1973); *University of San Francisco Law School*, 207 N. L. R. B. 12 (1973); *New York University Law School*, 205 N. L. R. B. 4 (1973); *Farleigh Dickinson University*, 205 N. L. R. B. 673 (1973); *Adelphi University*, 195 N. L. R. B. 639 (1972); *College of Pharmaceutical Services*, 197 N. L. R. B. 959 (1972); *Fordham University*, 193 N. L. R. B. 134 (1971); *Kendall College*, 228 N. L. R. B. 1083 (1977); *Wentworth Institute*, 210 N. L. R. B. 345, enforced, 515 F. 2d 550 (1st Cir., 1975); *Loretto Heights College*, 205 N. L. R. B. 1134 (1973); *Boston University*, 228 N. L. R. B. 1008 (1977), enforced, 575 F. 2d 301 (1st Cir., 1978), petition for cert. pending, No. 78-67.

In reviewing the University's argument that faculty members are supervisory employees, it is appropriate to go first to the NLRA Section 2(11) which defines "supervisor" as:

> any individual *having authority, in the interest of the employer,* to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment. (Emphasis added.)

The Court of Appeals would have this Court read the definition in an extremely expansive manner requiring a finding of supervisory status if any of the powers enumerated are exercised. The NLRB has consistently interpreted the language of Section 2(11) in light of the Congressional mandate to provide collective bargaining to employees unless their duties for the employer include a substantial supervisory role. The NLRB's position is set forth in *General Dynamics Corp.*, 213 N. L. R. B. 851, 858 (1974):

> While it is true that the authorities contained in Section 2(11) of the Act are indicative of supervisory authority, it does not necessarily follow that the exercise of one or more of these authorities *ipso facto* confers supervisorial authority unless it is exercised in the genuine managerial sense. This also is clear from the legislative history of the Taft-Hartley Act of 1947 wherein the Conference Committee adopted the Senate version of the bill, S. 1126, which excluded supervisors, but with a narrower definition thereof than the House version, H. R. 3020, by distinguishing between "leadmen, set-up men and other minor supervisory employees . . . and the supervisor vested with genuine management prerogatives as the right to hire or fire, discipline, or make effective recommendations with regard to such action." (citations omitted.)

The basis of the exclusion of managerial and supervisory employees is to have employees entrusted with administrative functions loyal to the employer. Faculty, when giving their

recommendations, are not acting from the perspective of the interests of the employer, but rather from their independent judgment on matters within their professional expertise.

To the extent that the faculty is acting from a perspective other than individual professional expertise, its action is taken in the interest of the faculty as a whole rather than that of the institution.

The interests of the faculty and that of the Board of Trustee's are not congruent. Like any other workers, the faculty have an interest in obtaining higher wages and benefits. Their determinations on classload and professional prerogatives may clash with the available financial resources and institutional concerns. The history of faculty bargaining and the vote for representation by a collective bargaining representative is a further indication that the interest of the faculty and the administrators of the institution are in conflict. It is precisely these types of conflicts that collective bargaining under the protection of the NLRB was established to resolve and channel into constructive dialogue.

The determination of the status of a group of employees is a matter particularly within the expertise of the NLRB. As stated in *NLRB* v. *Metropolitan Life Insurance Co.*, 405 F. 2d 1169, 1172 (2d Cir., 1968):

> "Inasmuch as infinite variations and gradations of authority can exist . . . any drawing of the line between personnel of management and the rank-and-file workers may require some expertise; the Board's findings relative thereto are entitled to great weight."

An example of the accepted approach to reviewing NLRB determinations can be found in *NLRB* v. *Stark*, 525 F 2d 422, 431 (1975):

> "The only other point requiring discussion is the respondent's contention that Peters was a supervisor within § 2(11) and thus not an "employee", § 2(3), protected by § 8(a)(1) and (3) . . . it is settled law that the Board's

> determination of this question receives even more than usual weight . . . [assigned to administrative agency determinations].

Certainly where the NLRB's determination is based on a consistent application of the principles first enunciated in *Adelphi University* and reapplied in numerous proceedings, the overturning of the NLRB's holding will have an unsettling effect on numerous collective bargaining relationships which have been established. See *Wall Street Journal,* September 29, 1978, Article by John Benzel.

The role of faculty members at Yeshiva University is consistent with that at numerous institutions where the NLRB has certified faculty bargaining units. It would be highly inappropriate to overrule the NLRB's findings in this area of its special expertise, particularly since, as will be more fully set forth below, Congress has implicitly approved the assertion of NLRB jurisdiction in this area.

B. The NLRB's Determination to Take Jurisdiction Over Collective Bargaining at Not-For-Profit Educational Institutions Is Consistent with Its Congressional Mandate.

In 1970, the NLRB reversed its long standing position of refusing to take jurisdiction over private not-for-profit educational institutions. See *Cornell University,* 183 N. L. R. B. 329 (1970). In its decision, the NLRB noted that educational institutions have had increasing impact on commerce by reason of the number of people employed and volume of business activities generated by these institutions. In addition, educational institutions have requested and received research grants and other monies from both governmental and private sources. In view of the increasing impact of education on the economy, it was determined that there was no longer any viable rationale for withholding the protection of collective bargaining from this large portion of the work force. *Id.*

The initial decision of the NLRB to assert jurisdiction in the context of an educational institution did not create a major stir possibly because the group of employees involved in the case were cafeteria workers and the employer would otherwise have been required to hold an election under the auspices of the New York State Labor Relations Board. K. Kahn, "The NLRB and Higher Education: The Failure of Policy-making Through Adjudication," 21 *UCLA* 63 (1973), pp. 64-65.

Once the NLRB assumed jurisdiction over not-for-profit educational institutions, the question of certification of faculty bargaining units came into focus. The NLRB in dealing with this issue quite properly drew from its experience in the private sector. *Fordham University,* 193 N. L. R. B. 134 (1971); *S. W. Post Center of Long Island University,* 189 N. L. R. B. 109 (1971).

The NLRB's decision to certify faculty bargaining units touched off extensive debate and research in the area. One of the early critics of the NLRB's actions was Kenneth Kahn. See Kahn, "The NLRB and Higher Education: The Failure of Policy-making Through Adjudication," 21 *UCLA* Law Review, 63 (1973). An assertion in the article by Kahn and implicitly accepted by the Court of Appeals is that Congress has never explicitly recognized and dealt with the propriety of the NLRB's assertion of jurisdiction over institutions of higher education. *Id.* at 85. In support of that assertion, Kahn cites the legislative history which mentions lawyers, engineers, and medical personnel but makes no mention of faculty members at institutions of higher education in the discussion of professional employees. See H. R. Conf. Rep. No. 510, 80th Congress, First Session 36 (1947).

While that statement may have been true at the time the Kahn article was written, it no longer is valid. The NLRB has been certifying bargaining units of faculty since 1971. Congress has had ample opportunity since that time to take action clarifying or limiting the NLRB discretion. It should first be noted

that no positive action is necessary to ratify the NLRB's actions in this area, since the agency has been statutorily granted wide discretion in determining jurisdiction. NLRA, § 9(b) as amended 29 U. S. C. A. § 159(b). See also *Kendall College* v. *NLRB*, 570 F. 2d 218 (1977).

In 1974, Congress had before it several amendments which would extend jurisdiction of the NLRB over not-for-profit hospitals. Early in the Senate debates Senator Harrison Williams, Chairman of the Labor and Public Welfare Committee, speaking in support of those amendments, acknowledged the NLRB's assertion of jurisdiction over institutions of higher education, stating:

> "The current exemption from NLRA of not-for-profit hospitals is not only inconsistent with the protection enjoyed by proprietory hospitals and other types of health care institutions, but it also is inconsistent with the coverage of other not-for-profit activities. The NLRB has currently asserted jurisdiction over nonprofit colleges and universities, philanthropic lodging houses, nonprofit educational broadcast stations, and nonprofit cooperative insurance companies."
>
> "It would be highly unjust and arbitrary to continue to exclude nonprofit hospital workers from the national labor policy of recognizing and in fact encouraging the right of workers to organize and bargain collectively. . . ."
>
> 120 Congressional Record 12938 (1974), Reprinted in Legislative History of Non-Profit Hospitals under the NLRA (1974) (Committee Print by Sub-Committee on Labor of Senate Committee on Labor and Public Welfare), at pp. 95-96.

Thus it can be seen that in passing the 1974 Amendment to the NLRA which brought not-for-profit hospitals under the jurisdiction of the NLRB, Congress both knew of and approved the prior assertion of jurisdiction over institutions such as not-for-profit colleges and universities by the NLRB. Implicit in this approval is the approval of the certification of faculty bargaining agents, since at the time of the debates the NLRB had certified numerous faculty collective bargaining units. See *C. W. Post Center of Long Island University*, 189 N. L. R. B. 904 (1971), *Fordham University*, 193 N. L. R. B. 134 (1971).

Although many commentators in the education field would state that certification of faculty bargaining units presents special problems, many of the unit determination questions involving professionals which were specifically delineated in the 1947 debate on the inclusion of § 2(11) of the Act are every bit as complex. See *General Dynamics*, 213 N. L. R. B. 851 (1974) and *Skidmore, Owens & Merrill*, 192 N. L. R. B. 920 (1971). The complexity of determination in this area, which was specifically delegated to the NLRB, provides a persuasive reason for judicial deference to the NLRB in this area. As stated in *Kendall College* v. *NLRB*, 570 F. 2d 216, 220 (1977):

> ". . . As indicated previously, the primary responsibility in making unit determinations rests with the Board. Those determinations are not to be made on the basis of immutable and inflexible principles, for it must be remembered also that the adaption of the Act to the "changing patterns of industrial life is entrusted to the Board. *NLRB* v. *Weingarten, Inc.*, 420 U.S. 251, 266, Supreme Ct., 958, 968, 43 L. Ed. 2d 171 (1975); *Cf., Lutheran Hospital of Milwaukee, Inc.* v. *NLRB*, 564 F. 2d 208 (7th Cir., 1977), pp. 214-5."

In the present case, the Court of Appeals plainly overstepped its bounds when it substituted its own policy determinations for those which have been adopted by the NLRB by reference to criteria which have been developed after review of numerous representational proceedings with the apparent assent of Congress.

II.

COLLECTIVE BARGAINING AND JOINT GOVERNANCE ARE COMPATIBLE AND THE COORDINATION OF THESE STRUCTURES SERVES AS THE BEST METHOD FOR PROFESSIONAL EDUCATIONAL EMPLOYEES TO MEET THE ECONOMIC AND ACADEMIC CHALLENGES THEY FACE.

Another basis implicitly adopted by the Court of Appeals and discussed in the Kahn article for limiting collective bargaining by faculty is the belief that collective bargaining is necessarily in conflict with the joint governance structure which exists at many institutions of higher education. In support of that assertion, Kahn raises the specter that the advent of collective bargaining necessarily leads to the transfer of all decision-making to the bargaining table with the disintegration of joint governance. This simply has not happened.

As pointed out by James P. Begin, collective bargaining and joint governance are not necessarily competitive and antagonistic. See Begin, "Faculty Governance and Collective Bargaining: An Early Appraisal", *XLV Journal of Higher Education*, No. 8, November, 1974, p. 583. The potential range of outcomes is somewhat broader. One emerging trend has been the formulation of a dual and co-existing form of governance with, (a) the incorporation and protection of traditional procedures within the collective bargaining agreement, or (b) the development of separate systems of faculty participation: utilization of bargaining for economic items while utilization of governance for educational policy issues. Finally, some universities have moved to improve the quality of joint governance structures in order to discourage the introduction of or undermine the existence of a bargaining agent. *Id.* at 583-5.

None of the four-year institutions examined by Professor Begin had dismantled their joint governance structure as a result of the introduction of collective bargaining. *Id.* at 584. One two-year institution in New Jersey did abolish its joint governance structure in the early stages of the bargaining relationship. However, as the parties developed more sophistication, they developed and implemented a joint governance structure. Ironically, they were at an impasse on numerous other items. *Id.*, at 584.

The impact of collective bargaining on governance at institutions of higher education was also reviewed in Morand, "Collective Bargaining and Collegiality: A Pennsylvania View", 9 *Rutgers-Camden Law Journal*, 699 (1978).

Martin J. Morand, reviewing the collective bargaining experience from a later perspective than James P. Begin, sees its contribution in a positive light. Far from destroying governance, collective bargaining is a form of self-governance by the faculty. In the area of financial stress in higher education, the collective bargaining agent serves as an efficient means by which the faculty can make their economic needs heard by the institution and by the governmental structures upon which these institutions are becoming increasingly dependent.

The American Federation of Teacher (AFL-CIO) is in the forefront of developing collective bargaining relationships at all levels of educational institutions. Approximately 1,000 affiliates have established collective bargaining relationships. Since 1967, AFT affiliates at more than 240 institutions of higher education have established collective bargaining relationships. Based on this experience, we can state positively that collective bargaining and joint governance are compatible and coordinating structures.

As stated by Albert Shanker, President of the AFT and International Vice-President of the AFL-CIO:

> "Governance procedures that are found in higher education can continue to exist. There is no conflict with unionization. As a matter of fact, collective bargaining in most parts of the world is moving toward what is now referred to as worker-participation or co-determination. In every sector of this economy, I think we are going to see greater participation in the actual operation of the institution."

Experience in the field of collective bargaining shows conclusively that it has not caused the demise of joint governance. Instead, it has and will continue to serve a cooperative role in protecting the faculty at institutions of higher education from the increasing economic pressures which threaten the very existence of many educational institutions.

SUMMARY.

The Court of Appeals based its decision on the premise that the role of the faculty in the operation of Yeshiva University is so pervasive as to require a finding that the faculty are managerial employees. Although the court purports to limit its holding to the factual situation presented at Yeshiva University, its rationale is applicable to a large number of institutions of higher education which have joint governance structures.

This decision is in conflict with the decisions of the First Circuit Court of Appeals in *NLRB* v. *Wentworth Institute*, 515 F. 2d 550 (1975), and *NLRB* v. *Boston College*, 525 F. 2d 301 (1977). It is further a challenge to the doctrines developed by the NLRB in numerous representational proceedings.

The Circuit Court's finding that faculty input into such areas as hiring new faculty, determinations to grant tenure, and cirriculum choices require a finding of managerial status misinterprets the role of the faculty. Rather than serving as managers, faculty act from the basis of their own self-interest and from the perspective of their professional expertise. Further implicit in the court's finding is a determination that collective bargaining and joint governance are necessarily conflicting and antagonistic.

A review of the collective bargaining relationships already established demonstrates that joint governance and collective bargaining have been cooperative in most institutions, and, in

many, collective bargaining has strengthened joint governance. Based on the experience with collective bargaining at approximately 600 institutions of higher education, it can be seen that collective bargaining and joint governance are compatible and the coordination of these structures serves as the best method for professional educational employees to meet the economic and academic challenges they face.

Respectfully submitted,

LAWRENCE POLTROCK,
General Counsel,
American Federation of Teachers
(AFL-CIO),
134 North LaSalle Street,
Chicago, Illinois 60602,
(312) 236-0606.

Of Counsel:
LAWRENCE A. POLTROCK,
MICHAEL RADZILOWSKY,
DEJONG, POLTROCK & GIAMPIETRO,
134 North LaSalle Street,
Chicago, Illinois 60602,
(312) 236-0606.

Supreme Court, U.S.
FILED
MAY 4 1979
MICHAEL RODAK, JR., CLERK

Nos. 78-857 and 78-997

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioners,

v.

YESHIVA UNIVERSITY,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

---

BRIEF OF AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, AMICUS CURIAE

WOODLEY B. OSBORNE
1 Dupont Circle, N.W.
Washington, D.C. 20036

Attorney for American Association of University Professors

Amicus Curiae

Of Counsel:

VICTOR J. STONE
College of Law
University of Illinois
Champaign, Illinois 61820

ROBERT A. GOLDSTEIN
150 East 58th Street
New York, New York 10022

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	iii
INTEREST OF AMICUS	1
INTRODUCTION	2
SUMMARY OF ARGUMENT	9
ARGUMENT	11
I. The Measure Of Employee Influence On Management Is Not A Proper Test Of Managerial Status Under The Act	11
A. Employee Influence On Managerial Decision-Making Has Never Been Deemed Sufficient, By Itself, To Warrant Exclusion From The Protections Of The Act	11
B. The Use Of Employee Influence As A Test Of Managerial Status Will Needlessly Disrupt The Administration Of The National Labor Relations Act	15
C. The Employee Influence Test Announced By The Court Below Will Effectively Nullify The Act's Coverage Of Professional Employees	22
II. The Yeshiva Faculty Are Not "Managerial Employees" And Are Entitled To The Full Protections Of The National Labor Relations Act	26
A. The Faculty Governance Role Does Not Bring Them Within The Board's Definition Of "Managerial Employees"	26
B. Faculty Members' "Job Responsibilities" Do Not Include The Exercise Of Any "Managerial" Function, Though Considerable Faculty Influence Does Result From Their Specialized Expertise	28

TABLE OF CONTENTS—Continued

	Page
C. Institutions Of Higher Education—Including Yeshiva University—Are Organized To Include A Discrete Managerial Function, Responsibility For Which Is Neither Vested In Nor Performed By The Faculty	30
CONCLUSION	34
APPENDIX	A-1

TABLE OF AUTHORITIES

Cases:	Page
Adelphi University, 195 N.L.R.B. 639 (1972)	27, 30
American Association of University Professors v. *Bloomfield College*, 129 N.J. Super. 249, 322 A.2d 846 (Ch. Div. 1974), *aff'd*, 136 N.J. Super. 442, 346 A.2d 615 (App. Div. 1975)	6
A. S. Abell Co., 81 N.L.R.B. 82 (1949)	3
Barenblatt v. *United States*, 360 U.S. 109 (1959)	5
Bell Aerospace Co., on remand, 219 N.L.R.B. 384 (1975)	11
Browzin v. *Catholic University*, 527 F.2d 843 (D.C. Cir. 1975)	6
Bures v. *Houston Symphony*, 503 F.2d 842 (5th Cir. 1974)	20
Child & Family Service of Springfield, Inc., 220 N.L.R.B. No. 4 (1975)	3
Cornell University, 183 N.L.R.B. 329 (1970)	18
Denton's Inc., 83 N.L.R.B. 35 (1949)	
Dravo Corporation, 54 N.L.R.B. 1174 (1944)	11
Eastern Camera and Photo Corp., 140 N.L.R.B. 569 (1963)	11
Ford Motor Co., 66 N.L.R.B. 1317 (1946)	11
General Dynamics Corp., 213 N.L.R.B. 851 (1974)	3, 11, 23
H. K. Porter Co. v. *NLRB*, 397 U.S. 99 (1970)	15
Illinois State Journal Register v. *NLRB*, 412 F.2d 37 (7th Cir. 1969)	12
International Ladies Garment Workers Union v. *NLRB*, 339 F.2d 116 (2d Cir. 1964)	12
J. L. Brandeis & Sons, 54 N.L.R.B. 880 (1944)	12
Johnson v. *Board of Regents*, 377 F. Supp. 227 (W.D. Wis. 1974), *aff'd*, 510 F.2d 975 (7th Cir. 1975) (table)	6
Julien P. Friez & Sons, 47 N.L.R.B. 43 (1943)	11
Keyishian v. *Board of Regents*, 385 U.S. 589 (1967)	4
Krotkoff v. *Goucher College*, 585 F.2d 675 (4th Cir. 1978)	6

TABLE OF AUTHORITIES—Continued

	Page
Levitt v. *Board of Trustees*, 376 F. Supp. 945 (D. Neb. 1974)	6
Loral Electronics Systems, 200 N.L.R.B. 1019 (1972)	3
Mourning v. *NLRB*, 559 F.2d 768 (D.C. Cir. 1977)	9
NLRB v. *American Nat'l. Insurance Co.*, 343 U.S. 395 (1952)	16
NLRB v. *Bell Aerospace Co.*, 416 U.S. 267 (1974)	12, 14, 17
NLRB v. *Pope Maintenance Corp.*, 573 F.2d 898 (5th Cir. 1978)	12
NLRB v. *Retail Clerks, Local 876*, 570 F.2d 586 (6th Cir. 1978)	12
NLRB v. *The Catholic Bishop of Chicago*, ... U.S. ——, 47 USLW 4283 (March 21, 1979)	16
NLRB v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975)	2
NLRB v. *Wooster Div. of Borg-Warner*, 356 U.S. 342 (1958)	19
National Licorice Co. v. *NLRB*, 309 U.S. 350 (1940)	19
Neighborhood Legal Services, Inc., 236 N.L.R.B. —— (No. 154), 1978 CCH NLRB ¶ 19,382 (1978)	3
New York Telephone Company v. *New York State Department of Labor*, —— U.S. ——, 47 USLW 4303 (March 21, 1979)	15
Northeastern University, 218 N.L.R.B. 247 (1975)	27, 32
Packard Motor Car Co. v. *NLRB*, 330 U.S. 485 (1947)	14
Palace Laundry Dry Cleaning Corporatoin, 75 N.L.R.B. 320 (1947)	11
Permanente Medical Group, 187 N.L.R.B. 1033 (1971)	3
Plankinton Packing Co., 116 N.L.R.B. 1225 (1956)	12

TABLE OF AUTHORITIES—Continued

	Page
Retail Clerks International v. *NLRB*, 366 F.2d 642 (D.C. Cir. 1966), *cert. denied*, 386 U.S. 1017 (1967)	12
Scheuer v. *Creighton University*, 199 Neb. 618, 260 N.W.2d 595 (1977)	6
Skidmore, Owings & Merrill, 192 N.L.R.B. 920 (1971)	3
Sutter Community Hospitals of Sacramento, Inc., 227 N.L.R.B. 181 (1976)	3
Sweezy v. *New Hampshire*, 354 U.S. 234 (1957)	4
Syosset General Hospital, 190 N.L.R.B. 394 (1971)	3
Terminal Assn. v. *Trainmen*, 318 U.S. 1 (1943)	15
Trustees of Boston University v. *NLRB*, 575 F.2d 301 (1st Cir. 1978), *petition for cert. filed* (U.S. July 11, 1978) (No. 78-67)	2
Universal Camera Corp. v. *NLRB*, 340 U.S. 474 (1951)	8
Vulcan Corporation, 58 N.L.R.B. 733 (1944)	11, 12
Western Electric Co., 100 N.L.R.B. 420 (1952)	29
Westinghouse Electric Corp., 97 N.L.R.B. 1271 (1952)	23
Westinghouse Electric Corp., 113 N.L.R.B. 337 (1955)	12, 23

Statutes:

United States Statutes:

National Labor Relations Act, 29 U.S.C. §§ 151 *et seq.*:

Section 2(12), 29 U.S.C. § 152(12)	22
Section 9(b), 29 U.S.C. § 159(b)	22
Section 9(c)(3), 29 U.S.C. § 159(c)(3)	21

TABLE OF AUTHORITIES—Continued

State Statutes: Page

Conn. Gen. Stat. § 31-101 *et seq.* (1972 ed. and 1978 Supp.) 18
Minn. Stat. § 179.61 *et seq.* (1979 Supp.) 18
N.J. Rev. Stat. § 34:13A-1 *et seq.* (1978 Supp.) 18
Pa. Stat. Ann. tit. 43, § 1101.101 *et seq.* (1978 Supp.) (Purdon) 18

Books:

J. BALDRIDGE, POWER AND CONFLICT IN THE UNIVERSITY (1971) 25
BALDRIDGE, CURTIS, ECKER AND RILEY, POLICY-MAKING AND EFFECTIVE LEADERSHIP (1978) 4, 30, 31
CARNEGIE COMMISSION ON HIGHER EDUCATION, GOVERNANCE OF HIGHER EDUCATION (1973) 6
E. CHEIT, THE NEW DEPRESSION IN HIGHER EDUCATION (1971) 3
J. CORSON, THE GOVERNANCE OF COLLEGES AND UNIVERSITIES (rev. ed. 1975) 21, 31, 33
T. HUNGATE, MANAGEMENT IN HIGHER EDUCATION (1964) 28
W. JELLEMA, FROM RED TO BLACK? THE FINANCIAL STATUS OF PRIVATE COLLEGES AND UNIVERSITIES (1973) 3
F. KEMERER AND J. BALDRIDGE, UNIONS ON CAMPUS (1975) 4
W. KORNHAUSER, SCIENTISTS IN INDUSTRY (1962) .. 24
H. MASON, COLLEGE AND UNIVERSITY GOVERNMENT (TULANE STUDIES IN POLITICAL SCIENCE, VOL. XIV, 1972) 29
H. WELLINGTON, LABOR AND THE LEGAL PROCESS (1968) 18

TABLE OF AUTHORITIES—Continued

Articles: Page

Bonanno, *Employee Codetermination: Origins in Germany, Present Practice in Europe, and Applicability to the United States*, 14 HARV. JOURNAL ON LEGISLATION, 947 (1977) 16
Clark, *Faculty Organization and Authority*, in ACADEMIC GOVERNANCE, J. BALDRIDGE, ed. (1971) 25
Dorfman, *Report on the Economic Status of the Profession, 1976-1977*, 63 AAUP BULL. 146 (1977) 3
Feller, *A General Theory of the Collective Bargaining Agreement*, 61 CALIF. L. REV. 663 (1973) 16
Finkin, *Collective Bargaining and University Governance*, 57 AAUP BULL. 149 (1971) 21
Finkin, *The Supervisory Status of Professional Employees*, 45 FORDHAM L. REV. 805 (1977) 22, 24
Kemeny, *The University in Steady State*, DAEDALUS 87 (1975) 3, 4
Metzger, *The American Academic Profession in "Hard Times,"* DAEDALUS 25 (1975) 4
Reiss, *Collegiality or Unionization: The Fordham Election*, in THE EFFECTS OF FACULTY COLLECTIVE BARGAINING ON HIGHER EDUCATION (R. HEWITT, ed., 1973) 18
Strauss, *Professionalism and Occupational Associations*, INDUSTRIAL RELATIONS (May 1963) 24

Miscellaneous:

Academic Collective Bargaining Information Service, Special Report No. 12, Update April, 1978 18
Academic Freedom and Tenure: City University of New York—Mass Dismissals Under Financial Exigency, 63 AAUP BULL. 60 (1977) 5
Academic Freedom and Tenure: The State University of New York, 63 AAUP BULL. 237 (1977) 5
Agreement between the Associated Hospitals of San Francisco and the East Bay and the California Nurses Association (BLS. No. 7974) 19

TABLE OF AUTHORITIES—Continued

	Page
Agreement Between San Francisco Symphony Association and Musicians Union of San Francisco, Local No. 5, American Federation of Musicians (BLS No. 550372)	20
Articles of Agreement Between Houston Symphony Society and Houston Professional Musicians Association, Local Union No. 65, American Federation of Musicians BLS No. 541803)	20
J. Bodner, *The "No Agent" Vote at N.Y.U.: A Concise Legal History*, Academic Collection Bargaining Information Service Special Report No. 9 (1974)	17
Chronicle of Higher Education, June 26, 1978	18
Employment Agreement Between Southwest Washington Hospital Council and the Washington State Nurses Association (Bureau of Labor Statistics No. 551759), Articles XVII, XVIII	19
"The Gypsy Scholars," Wall Street Journal, Mar. 13, 1979	5
H.R. REP. No. 245, 80th Cong., 1st Sess. (1947)	13
HEARINGS ON AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT BEFORE THE HOUSE COMM. ON EDUC. AND LABOR, 80th Cong., 1st Sess. (1947)	22
HEARINGS ON S. 55 and S.J. RES. 22 BEFORE SENATE COMM. ON LABOR AND PUB. WELFARE, 80th Cong., 1st Sess. (1947)	22
"The Job Crunch Spurs Debate on Tenure," N.Y. Times, Jan. 16, 1979	5
"Later Retirement Movement Fuels Concern Over Tenure," Chronicle of Higher Education, April 17, 1978	5
V. Lussier, *Albion College Votes "No Agent": A Case Study*, Academic Collective Bargaining Information Service Special Report No. 7 (undated)	18

TABLE OF AUTHORITIES—Continued

	Page
Rules and Regulations, National Labor Relations Board, Subpart C	21
S. REP. No. 105, 80th Cong., 1st Sess. (1947)	13, 24
1940 *Statement of Principles on Academic Freedom and Tenure* in AAUP POLICY DOCUMENTS AND REPORTS, 1977 ed. at 1	4

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioners,

v.

YESHIVA UNIVERSITY,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

---

BRIEF OF AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, AMICUS CURIAE

INTEREST OF AMICUS *

The American Association of University Professors is a national professional organization of teachers and research scholars in all disciplines at accredited colleges and universities in the United States. It has approximately 1350 chapters and over 75,000 members in such institutions.

A substantial and growing number of the Association's chapters are, with the encouragement and support of the Association, engaged in collective bargaining with the administrations and governing boards of institutions of

---

* All parties have consented to the filing of this Brief.

higher education. A substantial portion of the Association's resources are each year allocated to the support of Association chapters engaged in efforts to organize and engage in collective bargaining under the provisions of the National Labor Relations Act.

If a faculty's collective role in governance matters can deprive it of the protections of the National Labor Relations Act, as held by the court below, both of these activities are threatened. The legal status of ongoing collective bargaining relationships between faculty unions and the administrations and governing boards of privately supported institutions of higher education will remain uncertain if the decision below stands, as will the organizational rights of faculty generally.

The Association's chapter is a party in *Trustees of Boston University* v. *NLRB*, 575 F.2d 301 (1st Cir. 1978), *petition for cert. filed* (U.S. July 11, 1978) (No. 78-67).

INTRODUCTION

This is the first case to reach this Court involving faculty as employees under the National Labor Relations Act.[1] While the faculty employment relationship is substantially different from that which ordinarily confronts the Labor Board,[2] the factors impelling faculties toward

[1] In *Trustees of Boston University* v. *NLRB*, *supra*, the court of appeals enforced a Board order requiring that university to bargain with the faculty union certified by the Board; but in that case there was no contention that faculty, as a class, ought be excluded from the Act's coverage. In *NLRB* v. *Wentworth Institute*, 515 F.2d 550, 557 (1st Cir. 1975) the court of appeals rejected the employer's argument that faculty must be excluded from the Act's coverage.

[2] Though in passing the Act, Congress appears to have had industrial employment principally in mind, it is now far too late in the day to suggest that coverage is limited to the simpler employment relationships found in industry. By explicitly extending coverage to professional employees in the 1947 amendments to the Act, Congress made clear that no such limitation was intended. The Labor Board has ordered bargaining elections in units including a wide

collective bargaining are no different than those which move other employees in that direction, and it is important that this case be viewed with these factors in mind.

Like other employees, faculty are paid salaries which are set and modified by their employing institutions. In recent years the purchasing power of these salaries has declined measurably, and at a faster rate than that experienced by American workers generally:

> Until 1970-71, faculty salaries approximately kept pace with the increase in salaries of workers in general. Since then, they have fallen steadily behind. The average salary of all nonagricultural employees has risen 48 per cent since 1970-71; that of faculty members only 70 per cent as much. The performance of compensation (salary plus fringes) has been about the same: the national level of compensation has increased by 36 per cent more than that of faculty members since the beginning of the seventies. Dorfman, *Report on the Economic Status of the Profession 1976-1977*, 63 AAUP BULL. 146, 148-149 (1977).

This decline in the economic circumstances of America's faculties reflects to some degree the declining economic fortunes of higher education generally.[3]

variety of professions: lawyers (*Neighborhood Legal Services, Inc.*, 236 N.L.R.B. —— (No. 154) 1978 CCH N.L.R.B. ¶ 19,382 (1978)); laboratory technologists (*Permanente Medical Group*, 187 N.L.R.B. 1033 (1971); pharmacists (*Syosset General Hospital*, 190 N.L.R.B. 394 (1971)); architects (*Skidmore, Owings & Merrill*, 192 N.L.R.B. 920 (1971)); engineers (*General Dynamics Corp.*, 213 N.L.R.B. 851 (1974)); social workers (*Child & Family Service of Springfield, Inc.*, 220 N.L.R.B. No. 4 (1975)); computer programmers (*Loral Electronics Systems*, 200 N.L.R.B. 1019 (1972)); registered nurses (*Sutter Community Hospitals of Sacramento, Inc.*, 227 N.L.R.B. 181 (1976)); and newspaper editorial writers (*A. S. Abell Co.*, 81 N.L.R.B. 82 (1949)).

[3] *See e.g.*, E. CHEIT, THE NEW DEPRESSION IN HIGHER EDUCATION (1971); W. JELLEMA, FROM RED TO BLACK? THE FINANCIAL STATUS OF PRIVATE COLLEGES AND UNIVERSITIES (1973); Kemeny, *The University in Steady State*, DAEDALUS 87 (Winter, 1975).

As budget-cutting decisions are being made in higher education, faculty influence on institutional decision-making is perceived to be at a low ebb:

> A number of critical changes—the weakened job market, less research funds, and the encroachment of outside pressure groups—have diminished faculty influence over decision processes in most institutions. These changes have resulted in restricted budgets, frozen salaries, the elimination of departments, and the execution of major decisions over the strong objections of faculties that feel increasingly impotent. J. Baldridge, *et al.*, POLICY-MAKING AND EFFECTIVE LEADERSHIP 95 (1978).

These developments have resulted in administrative efforts to modify tenure and to take other steps to deal with financial problems—steps which have exacerbated the natural tensions in faculty-administration relations.[4] Not surprisingly, these developments have also spurred faculty interest in collective bargaining.[5]

Concern for job security, both in terms of protection against economic layoffs and protection against unfair dismissals, is central to collective bargaining in industry. It is of critical importance to the professoriate as well. The American system of academic tenure, underpinned by a widespread commitment to academic freedom,[6] has

[4] *See* KEMERER AND BALDRIDGE, UNIONS ON CAMPUS, Ch. 3 (1975); Metzger, *The American Academic Profession in "Hard Times,"* DAEDALUS 25 (Winter 1975); Kemeny, *The University in Steady State, Id.* at 87.

[5] "As long as the number of students continued to increase every year, jobs were plentiful, salaries were rapidly rising, and institutions were expanding both their facilities and services. Now, however, the massive boom has leveled off, and job security and salary increases have become prime concerns of faculty and are contributing to widespread unionization." UNIONS ON CAMPUS, *Supra*, at 38.

[6] 1940 *Statement of Principles on Academic Freedom and Tenure*, AUUP POLICY DOCUMENTS AND REPORTS, 1977 ed. at 1, *See Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957); *Keyishian* v. *Board of*

enjoyed uneasy and tepid support from some segments of higher education's administrative community.[7] Shrinking financial resources in higher education today pressure faculty job security at all levels. As institutions are increasingly uncertain of future growth, junior faculty find their prospects for achieving tenure exceedingly bleak.[8] At the same time, financially pressed administrators point to "financial exigency" or program discontinuance as grounds for dismissing tenured faculty without the usual need to demonstrate "cause." *Academic Freedom and Tenure: City University of New York—Mass Dismissals Under Financial Exigency*, 63 AAUP BULL. 60 (1977); *Academic Freedom and Tenure: The State University of New York*, 63 AAUP BULL. 237 (1977).[9] In this con-

Regents, 385 U.S. 589 (1967); cf. *Barenblatt* v. *United States*, 360 U.S. 109, 112 (1959):

> "When academic teaching-freedom and its corollary learning-freedom, so essential to the well-being of the Nation, are claimed, this Court will always be on the alert against intrusion by Congress into his constitutionally protected domain."

[7] *See e.g.*, "Job Crunch Spurs Debate on Tenure," N.Y. Times, Jan. 16, 1979, at C5; "Later Retirement Movement Fuels Concern over Tenure," Chronicle of Higher Education, April 17, 1978.

[8] *See e.g.*, "The Gypsy Scholars," Wall St. J., March 13, 1979, at 1. *See also* note 9, *infra*.

[9] The causes and consequences of administrative hostility to faculty tenure have been described by one commentator as follows: "It has long been assumed that tenure gives a strong measure of job security, but there is increasing concern that tenure will be undermined by institutions trying to maintain some staffing flexibility. The problem is serious: the percentage of faculty members holding tenured positions at colleges and universities rose from 47 percent in 1969 to 65 percent in 1973. The Carnegie Commission on Higher Education estimates that in the 1980s over 80 percent of full-time faculty members will have tenure if present policies continue. *Under these circumstances, it is not surprising to find legislators, trustees, and administrators attacking tenure and to find faculty members increasingly suspicious about the real reasons that tenure is not granted.* Some of the critics point out that, given pressures to economize, keeping down the number of tenured positions is not simply a way to maintain staffing flexibility but is actually a way

text both tenured and untenured faculty have sought protection in the courts with little success.[10] It is no wonder, then, that they have turned to collective bargaining as the best hope of protecting both their jobs and their role in the institutional decision-making process.[11]

This case reached the court below on the petition of the National Labor Relations Board (hereafter "Board" or "Labor Board") to enforce its order requiring Yeshiva University to recognize and bargain with the Yeshiva University Faculty Association, which had decisively won a Board-supervised collective bargaining election. The validity of the Board's underlying unit determination was challenged by the University.

The court of appeals analyzed the governance patterns at each of ten divisions of the University and found that the faculty, frequently operating through committees chaired by administrators, regularly make recommen-

---

to effect considerable savings, especially if a permanent revolving pool of low-paid nontenured faculty is available. . . .

"A general mistrust of authorities fuels faculty suspicions about tenure policies. Under pressure to trim budgets, administrators are more inclined than ever before to disregard faculty recommendations." UNIONS ON CAMPUS, *supra*, 46-47. (Citations omitted, emphasis supplied.)

[10] *Scheuer* v. *Creighton University*, 199 Neb. 618, 260 N.W.2d 595 (1977); *Johnson* v. *Board of Regents*, 377 F. Supp. 227 (W.D. Wis. 1974), *aff'd*, 510 F.2d 975 (7th Cir. 1975) (table); *Levitt* v. *Board of Trustees*, 376 F. Supp. 945 (D. Neb. 1974); *Krotkoff* v. *Goucher College*, 585 F.2d 675 (4th Cir. 1978). *Cf. American Association of University Professors* v. *Bloomfield College*, 129 N.J. Super. 249, 322 A.2d 846 (Ch. Div. 1974), *aff'd*, 136 N.J. Super. 442, 346 A.2d 615 (App. Div. 1975); *Browzin* v. *Catholic University*, 527 F.2d 843 (D.C. Cir. 1975).

[11] "Unionization for [faculty] is more a protective than an aggressive act, more an effort to preserve the status quo than to achieve a new position of influence and affluence as has so often been the goal of unionization for other groups at an earlier time." CARNEGIE COMMISSION ON HIGHER EDUCATION, GOVERNANCE OF HIGHER EDUCATION 40 (1973).

dations to the University in a number of important areas: the appointment, reappointment, promotion and tenure of their faculty colleagues, curriculum matters, the establishment or revision of admission and degree requirements, grading standards, and tuition levels. The court further found that these recommendations were usually accepted by the University's administration or governing board. Concluding from these findings that the faculty at Yeshiva "are, in effect, substantially and pervasively operating the enterprise," 582 F.2d at 698, the court of appeals held that Yeshiva's faculty are "managerial" or supervisory employees and denied enforcement.

Although the court below characterized the faculty actions at Yeshiva as "decisions," it is plain from the record that the faculty make decisions only to the extent that they decide what to *recommend* to the administration and governing board.[12] Their "authority" entails the

---

[12] There can be no dispute that in the area of faculty personnel matters, the faculty actions consist of recommendations passed up through the deans to higher administrative authority. The court of appeals' decision itself makes this clear. In other areas (e.g., curriculum, grading and admission standards), while the court frequently characterizes the faculty actions as definitive, they become so only upon approval by the administration. For example, the court describes the testimony of Leo Landman, acting dean of the Bernard Revel School, as follows:

> "Landman testified that decisions on curriculum, admissions requirements, degree requirements, and course offerings were made by consensus of the faculty. Landman further testified that the faculty's decisions were *generally given effect*." 582 F.2d at 694. (Emphasis supplied.)

Similarly, in describing the authority of the "senior professors" at Yeshiva College, the court below asserts:

> "[S]enior professors largely *determine* the budget of their subject area. The budget *requests* of the senior professors receive perfunctory approval . . . "99 per cent" of the time." 582 F.2d at 691-2. (Emphasis supplied.)

And in stating its conclusions the court of appeals commented that

> "[T]he faculty has *initiated*, and the administration has repeatedly *accepted*, major policy determinations which constitute the essence of the University's educational venture." 582 F.2d at 701. (Emphasis supplied.)

frequently effective exertion of influence as informed professionals on management. In effect, then, the court of appeals held that the influence of every Yeshiva faculty member on management was such as to make him a "manager." [13]

While we believe that in its treatment of the record the court of appeals over-reached its authority under the "substantial evidence" test, *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474 (1951),[14] as *amicus* we take it as

[13] In order to sustain the court of appeals' holding, it is necessary to conclude that the entire faculty, even including the most junior instructor, exercise enough authority to be found "managerial" or supervisory, even those in colleges where the "senior professors" or departmental chairmen are acknowledged to exert most of the influence. (Stern College, 582 F.2d at 691; Yeshiva College, 582 F.2d at 691-2; Ferkauf Graduate School, 582 F.2d at 693; Bernard Revel Graduate School, 582 F.2d at 694. These schools account for more than half of Yeshiva's full-time faculty. 582 F.2d 690 n.6.) With respect to the chairmen, the court remarked on the Board's holding that they were not managerial or supervisory because their authority was diffused among their colleagues whose interests they represented. It found this inconsistent with the Board's further conclusion that the collective influence of the faculty did not make them "managerial employees." 582 F.2d at 703. But even assuming that the Board decision on the status of the chairmen is incorrect, it does not follow that their resulting supervisory or "managerial" status should be extended to all departmental faculty, simply because the chairmen consult them before making recommendations to the administration. It could hardly be supposed, for example, that a foreman could convert those working under him into supervisory or "managerial employees" by conveying their interests and concerns to management, even if management thereafter acted on those concerns.

[14] The court of appeals' treatment of these factual issues is illustrated by its findings with regard to the faculty role in tuition matters. The court found that "in particular cases . . . the tuition to be charged [is] *controlled* by the full-time faculty." 582 F.2d at 696. (Emphasis supplied.) This finding was based on a single incident in which the Acting Dean of one of Yeshiva's divisions recommended a $500 increase in tuition which was rejected in favor of a

factually correct that the faculty at Yeshiva regularly, and through a variety of means, make recommendations to the administration and governing board in a number of important areas, and that these recommendations are frequently accepted.[15] We do not believe that this is sufficient to make them "managerial employees" outside the protections of the Act.[16]

SUMMARY OF ARGUMENT

The Board-developed "managerial employee" exclusion extends to individuals who are closely "aligned with management" and who possess independent discretion to "formulate, determine and effectuate" management policies. The court below has improperly extended this exclusion to employees who simply exert a high degree of

$300 increase supported by the faculty. 582 F.2d at 693. *Cf.* Labor Board Petition for Certiorari, at p. 11. Similar inferences are drawn by the court of appeals throughout its opinion. The court's ultimate inference that the Yeshiva faculty are "operating the enterprise" is based on nothing more than facts showing that faculty advice on a variety of important matters is widely accepted by higher authority.

[15] The record reflects as well frequent instances in which faculty recommendations were rejected. *See* Union Petition for Certiorari, at 34-37. These instances were ignored by the court of appeals.

[16] We concentrate our argument on the court's finding of "managerial" status. We believe that the conclusion that the entire full-time faculty are supervisors as well is patently incorrect. The Board's conclusion that the definition of "supervisor" contained in section 2(11) of the Act extends only to *individuals* with authority over non-supervisory employees is a reasonable one. Thus read, the definition cannot be applied to an entire and discrete group of employees whose alleged supervisory authority is exercised almost entirely within the group. *Cf. Mourning* v. *NLRB*, 559 F.2d 768 (D.C. Cir. 1977). The court of appeals did not really disagree with the Board's view that section 2(11) cannot be applied to groups. Rather it held that there is nothing to prevent a finding that an entire group of employees are "managerial." 582 F.2d at 698-700. Oddly, the court nonetheless persisted in holding the faculty also to be supervisors, thus treating these related but discrete concepts as virtually fungible.

influence on management. In so doing it has imported a standard which will disrupt the administration of the National Labor Relations Act and interfere as well with the Act's notion of the "private ordering" of labor-management relations.

The court's test requires the Labor Board to condition access to bargaining rights on the level of pre-existing employee influence. At the same time the test imposes substantive limits on the provisions employees may seek to negotiate without running the risk of bargaining themselves out from under the Act's protection. The court's test is particularly inappropriate in the light of the Act's explicit coverage of professional employees whom Congress plainly understood to be unusually influential employees.

Though frequently exercising a high degree of influence on the terms and conditions of their employment and on matters of educational policy, the faculty employed at Yeshiva and elsewhere do not fit the Board's definition of "managerial employees." First, this influence flows directly from their status as professionals. Because of their highly specialized expertise, faculty are generally accorded great autonomy in the performance of their teaching and research responsibilities, and higher education management frequently relies on their judgment in a wide variety of critical areas.

Second, faculty are not held accountable for the performance of "managerial" functions. The faculty's "job responsibilities" are to teach and to carry out research. Their authority and influence stem from these responsibilities and not from any delegation of authority or responsibility from their governing board.

Finally, faculty lack the alignment with management required by the Board's definition. In fact, the faculty role depends for its efficacy on a marked independence

from management—understood as an institution's administration and governing board. This independence is essential to the faculty's academic freedom and frustrates any attempt to label the faculty as part of any "management team."

I. The Measure Of Employee Influence On Management Is Not A Proper Test Of Managerial Status Under The Act.

A. *Employee Influence On Managerial Decision-Making Has Never Been Deemed Sufficient, By Itself, To Warrant Exclusion From The Protections Of The Act.*

The Labor Board has defined "managerial employees" as "those in executive-type positions" who act from a position closely "aligned with management as [its] true representatives," and who possess substantial and independent discretion to "formulate and effectuate management policies." *General Dynamics Corp.*, 213 N.L.R.B. 851, 857 (1974). See also *Bell Aerospace Co., on remand*, 219 N.L.R.B. 384, 385 (1975); *Palace Laundry Dry Cleaning Corporation*, 75 N.L.R.B. 320, 323 (1947); *Eastern Camera and Photo Corp.*, 140 N.L.R.B. 569, 572 (1963).[17] This Court approved the Board's definition in

[17] In its earlier cases the Board frequently dealt specially with certain employees who discharged substantial responsibilities for their employers. When it found that such employees were "closely related to . . . management," *Julien P. Friez & Sons*, 47 N.L.R.B. 43, 47 (1943), it reasoned that to include them in bargaining units with employees lacking similar responsibilities would place them in a conflict of interest position. In so doing, the Board often labeled the excluded employees "managerial." *See e.g., Dravo Corporation*, 54 N.L.R.B 1174, 1177 (1944); *Vulcan Corporation*, 58 N.L.R.B. 733, 736 (1944); *Julien P. Friez & Sons, supra*. The Board subsequently refined its definition of "managerial employees" to include not only those individuals whose inclusion in a bargaining unit of "rank-and-file" employees would present a conflict of interest, but also those who "are in a position to formulate and effectuate management policies . . . [by] express[ing] and mak[ing] operative the decisions of management." *Ford Motor Co.*, 66 N.L.R.B. 1317, 1322 (1946).

NLRB v. *Bell Aerospace Co.*, 416 U.S. 267, 288-89 (1974).[18]

Neither the Board nor the other courts of appeals have ever intimated that influence on management is, by itself, a sufficient basis for a finding of managerial status.[19] The Board's test, depending as it does on a finding of close "alignment with management," is not satisfied by mere employee influence on management—even influence which is frequently effective. The Board's definition plainly contemplates that "managerial employees" are individuals who are hired by "management" to make "management" decisions and who are held accountable for this activity.[20] Employees who do no more than press

[18] The courts of appeals have also approved the Board's definition. *See e.g. Retail Clerks International* v. *NLRB*, 366 F.2d 642, 645 (D.C. Cir. 1966), *cert. denied*, 386 U.S. 1017 (1967); *International Ladies Garment Workers Union* v. *NLRB*, 339 F.2d 116, 123 (2d Cir. 1964); *NLRB* v. *Retail Clerks, Local 876*, 570 F.2d 586, 592 (6th Cir. 1978); *NLRB* v. *Pope Maintenance Corp.*, 573 F.2d 898, 908 (5th Cir. 1978).

[19] Even in its early decisions, relying on the "conflict of interest" definition, the Board generally held an individual to be "managerial" only when he had the authority to act for and bind the employer, as by making purchases or extending credit. *See e.g., Plankinton Packing Co.*, 116 N.L.R.B. 1225 (1956); *Denton's Inc.*, 83 N.L.R.B. 35 (1949); *Vulcan Corporation, supra; J. L. Brandeis & Sons*, 54 N.L.R.B. 880 (1944). Employees who have exerted their influence on their employers, or who have been in a position to make important recommendations have not, on the strength of that alone, been held "managerial." *See Illinois State Journal Register* v. *NLRB*, 412 F.2d 37, 42 (7th Cir. 1969), in which the court held a newspaper's "district men" non-managerial. The court observed that "the extent of the district man's relation to and influence on major company policies is limited to making recommendations to the company with respect to its policies and future plans." *See also Westinghouse Electric Corp.*, 113 N.L.R.B. 337 (1955).

[20] As this Court said in *Bell Aerospace, supra*, "[T]he question whether particular employees are 'managerial' must be answered in terms of the employees' actual job responsibilities, authority and *relationship to management*." 416 U.S. at 290 n.19. (Emphasis supplied.)

their advice on their employer and thereby achieve some level of influence over his decisions lack this central ingredient.[21] Moreover, the frequency with which management follows employee advice does not operate to bring those employees under the "managerial" rubric. Advice is no less advice when it is taken.

There is no sound reason that employees whose expertise makes them highly influential but who are not charged with explicit "managerial" responsibility, should be denied the statutory right to engage in collective bargaining as a means of improving their conditions of employment. Their seeking to bargain collectively over "wages, hours and other terms and conditions of employment" presents no necessary conflict of interest problems, since, lacking any "alignment with management," their unionization does not deprive management of "loyal representatives." [22]

[21] We do not, of course, contend that "managerial" status depends on unilateral decision-making authority, or that participation in management decision-making may not result in such status. To be sure, corporate executives, and other plainly "managerial" personnel, do not always possess such unilateral authority. Management decisions are increasingly made by groups of people each of whom is simply a participant in the process. But such personnel are directly charged with responsibility to so participate and are held accountable by management for their performance in this regard. Such accountability for the exercise of "managerial" responsibility is plainly lacking in the case of faculty influence, which is exerted from a position of independence from management. See discussion under part II.A, pp. 26-27 *infra*. It is also lacking in the case of professional employees generally, whose influence results directly from their expertise, rather than from hierarchical position or delegation of responsibility or authority from management. *See* discussion under part I.C, pp. 22-26 *infra*.

[22] In excluding supervisors, viewed as the "front line of management," S. REP. No. 105, 80th Cong., 1st Sess. 7 (1947), Congress intended to protect the right of both labor and management to their "loyal representatives." H.R. REP. No. 245, 80th Cong., 1st Sess. 16 (1947). To the extent "influential" employees are sought to be included in the same unit with employees lacking such influence, there may be some danger of combining conflicting interests. But

This Court's decision in *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267 (1974) does not support the more expansive "influence" test employed by the court below. *Bell Aerospace* simply held that the then-recent attempt by the Board to limit the "managerial employee" exclusion to employees with authority over labor relations matters threatened the unionization of corporate "executives," those who are "much higher in the managerial structure" than supervisors, and who Congress plainly intended to exclude from coverage. 416 U.S. at 283.[23] Concerned that the Board's new interpretation would "eviscerate the traditional distinction between labor and management," 416 U.S. at 285 n.13, the Court remanded the case to the Board with instructions that it return to its established definition.

---

these difficulties can be avoided by application of the Board's "community of interest" standards independent of the "managerial employee" exclusion. *Cf. NLRB* v. *Bell Aerospace Co.*, 416 U.S. at 290 n.20 ("To be sure, it would also be appropriate for the Board to exclude employees from a unit on the ground that their participation in a labor organization would create a conflict of interest with their job responsibilities.")

[23] Thus the Court observed:

> "A major company, for example, may have scores of executive officers who formulate and effectuate management policies, yet have no supervisory responsibility or identifiable conflict of interest in labor relations. If Congress intended the unionization of such executives, it most certainly would have made its design plain." 416 U.S. at 289 n.18.

In this regard the majority in *Bell Aerospace* reflected the concern voiced by Justice Douglas, dissenting in *Packard Motor Car Co.* v. *NLRB*, 330 U.S. 485, 494-495 (1947) that the extension of bargaining rights to supervisors would blur the distinction between labor and management, thereby revising common notions of industrial organization in a manner not intended by Congress. Justice Douglas feared that all employees, from the janitor to the company president, would be deemed "labor," free to bargain with the company's governing board or stockholders. By contrast, the test employed by the court below offers the hardly hypothetical prospect that, in a variety of circumstances, entire faculties, of hundreds and even thousands, by virtue of varying degrees of influence on their employer's policies, will be deemed "managerial employees" outside the Act's protection.

B. *The Use Of Employee Influence As A Test Of Managerial Status Will Needlessly Disrupt The Administration Of The National Labor Relations Act.*

One of the principal purposes of the National Labor Relations Act is to afford American employees the choice of engaging in collective bargaining as a means of enhancing their influence on their employers. In furtherance of this aim the Act has established a "process [which] . . . ensure[s] that employees as a group [can] express their opinions and exert their combined influence over the terms and conditions of their employment." *H. K. Porter Co.* v. *NLRB*, 397 U.S. 99, 103 (1970). Fundamental to this process are the notions of employee free choice and the "private ordering" of the employer-employee relationship.[24] Leaving to the employees themselves the choice of whether or not to engage in collective bargaining, the Act also leaves the parties substantially free to order their own relationship free from government interference. "So far as the Act itself is concerned [the terms of the relationship] may be as bad as the employees will tolerate or be made as good as they can bargain for." *Terminal Assn.* v. *Trainmen*, 318 U.S. 1, 6 (1943).

Avoiding direct regulation of the employer-employee relationship, the Act rather encourages joint employee-management participation in setting the terms of the relationship, and in resolving the disputes which arise between them; and "the extent of union and management participation in the administration of such matters is itself a condition of employment to be settled by bargain-

---

[24] "Free collective bargaining is the cornerstone of the structure of labor-management relations carefully designed by Congress when it enacted the NLRA. . . . [Congress] sought to leave labor and management essentially free to bargain for an agreement to govern their relationship." *New York Telephone Company* v. *New York State Department of Labor* (Powell J., dissenting). —— U.S. ——, 45 USLW 4303, 4311 (March 21, 1979).

ing." *NLRB* v. *American Nat'l Insurance Co.*, 343 U.S. 395, 409 (1952). This federally encouraged system of "free collective bargaining" presumes a malleable definition of "management prerogative," changing with the dynamics of the bargaining process and the judgment of the parties themselves.[25] Prior to collective bargaining the role of management in establishing the working conditions of its employees and in generally ordering the priorities of the enterprise is frequently unfettered.[26] With the advent of collective bargaining this usually changes, with many matters formerly within management's exclusive domain now settled by bilateral agreement. For this reason it must be of limited significance, in assessing the consequences of employee influence, that

[25] In *NLRB* v. *The Catholic Bishop of Chicago*, —— U.S. ——, 47 USLW 4283, 4285 (March 21, 1979) this Court approved a holding in which the constitutional problems presented by N.L.R.B. jurisdiction over parochial schools were contrasted with the "interference with management prerogatives found acceptable in an ordinary commercial setting."

[26] As David Feller has observed, however, there are in fact significant employee-generated limits on arbitrary managerial authority even in unorganized enterprises: "Collective bargaining is not, then, the occasion for *introducing* rules into the employment relationship. It is, rather, *a method by which employees participate* in what would otherwise be a system of unilateral management rulemaking and administration." Feller, *A General Theory of the Collective Bargaining Agreement*, 61 CALIF. L. REV. 663, 724 (1973) (Emphasis supplied.) Moreover, employee influence on "management" decisions is quite compatible with modern theories of management. As one commentator has observed:

> "The new managerial theories postulate that the employee's intimate knowledge of actual conditions at his work place puts him in a position to contribute constructively to the organization of operations and that allowing him to participate in the decision-making process will encourage a more active identification with the workplace and stimulate productivity." J. Bonanno, *Employee Codetermination: Origins in Germany, Present Practice in Europe, and Applicability to the United States*, 14 HARVARD JOURNAL ON LEGISLATION 947, 998 (1977) (Emphasis supplied.)

the areas of such influence include matters normally considered "managerial."

The "managerial employee" exclusion declared by this Court in *Bell Aerospace* is consistent with the foregoing statutory scheme insofar as it serves the limited purpose of preserving the integrity of the bilateral process contemplated by the Act. The Board's definition serves this purpose by extending the exclusion a short distance beyond the inner circle of management to those individuals who—though not part of this circle—are nonetheless closely "aligned" with it and vested by it with substantial authority. By focussing instead on employee influence, the court below cuts this limited exclusion loose from its moorings and compels the Labor Board to assess the substance of the employer-employee relationship in a manner nowhere contemplated by the Act. In practical effect, it held that bargaining rights under the Act are limited to employees having little or no influence at the time they seek to assert those rights.

The court below held that the influence of the Yeshiva faculty over their conditions of employment as well as over matters of educational policy ousts them from the Act's protection. In effect, it held that they did not need that protection. But the Act places the right to make this judgment in the employees themselves through the device of a Board-supervised representation election. Higher education employers are free, as are their industrial counterparts, to campaign against collective bargaining among their faculty and to argue that the faculty's influential position does not warrant resort to collective bargaining. The record of faculty collective bargaining elections confirms that many of them have been fought out on precisely these issues.[27]

[27] *See* Bodner, The "No Agent" Vote at N.Y.U.: A Concise Legal History, Academic Collective Bargaining Information Service ("ACBIS") Special Report No. 9, at 16 (1974):

[Footnote continued on page 18]

Moreover, the court of appeals' test interferes with the principles of "private ordering" which are central to the Act.[28] It imposes limits on the substantive provisions which faculties and other employees may negotiate into their labor agreements without risking loss of the very right to bargain under the Act. Employees may well seek to negotiate into their labor agreements procedures for employee participation in employer decision-making. Certainly the Act itself imposes no constraints on such efforts. To the extent employees are successful in this regard, there may be no difference in the level of influence thereby achieved from that found by the court below sufficient to oust the Yeshiva faculty from the Act's coverage.

This is more than just speculation. Since the Board extended jurisdiction to private higher education in 1970, *Cornell University*, 183 N.L.R.B. 329, the faculties of more than seventy-seven such institutions have organized and entered into formal collective bargaining relationships with their administrations and governing boards.[29] The

[27] [Continued]

"Advantageous conditions already achieved by the faculty in terms of economics, status, and governance authority were described by the administration."

See also Reiss, *Collegiality or Unionization: The Fordham Election*, in THE EFFECTS OF FACULTY COLLECTIVE BARGAINING ON HIGHER EDUCATION, 37 (R. HEWITT, ed. 1973); Lussier, *Albion College Votes "No Agent": A Case Study*, ACBIS Special Report No. 7 (undated).

[28] H. WELLINGTON, LABOR AND THE LEGAL PROCESS, pp. 49 *et seq.* (1968).

[29] The Chronicle of Higher Education, June 26, 1978, p. 8. *See also* ACBIS Special Report No. 12, April, 1978. In addition, the faculties of more than 500 state supported institutions of higher education are organized and currently engaged in collective bargaining under state-enacted public sector bargaining laws. *Id.* Most of these state laws are modeled on the National Labor Relations Act. *See e.g.*, Conn. Gen. Stat. § 31-101 *et seq.* (1972 ed. and 1978 Supp.); Minn. Stat. § 179.61 *et seq.* (1979 Supp.); N.J. Rev. Stat. § 34:13A-1 *et seq.* (1978 Supp.); Pa. Stat. Ann. tit. 43, § 1101.101 *et seq.* (1978 Supp.) (Purdon).

agreements negotiated by these faculties[30] frequently provide for extensive faculty involvement in decisions relating to the appointment, reappointment, promotion and tenure of their colleagues.[31] Many of these agreements also establish procedures for the exertion of influence on decisions relating to matters of educational policy: the setting of curriculum, the establishment of degree and admission requirements, budgetary matters, long-range planning, and even the formulation of capital improvement plans.[32] This expanded definition of "managerial" status confronts these faculty unions with the prospect of losing the protections of the Act by the fact of their success alone.[33] Having bargained too well, they may have bargained themselves out of the right to bargain under the Act.

[30] In our Brief *Amicus* in support of the Board's Petition for Certiorari we included an Appendix summarizing the provisions of twenty collective bargaining agreements negotiated by faculty unions at privately supported institutions of higher education. For convenience, that Appendix is also included at the end of this Brief.

[31] *See* Appendix at pp. A-7—A-10. Faculty involvement in these matters is plainly at the heart of their "conditions of employment" over which they would ordinarily be free to compel bargaining under the Act. *Cf. NLRB* v. *Wooster Div. of Borg-Warner*, 356 U.S. 342 (1958); *National Licorice Co.* v. *NLRB*, 309 U.S. 350 (1940).

[32] *See* Appendix at pp. A-1—A-6.

[33] Faculty are not the only employees who have used collective bargaining to enhance their influence on their employer. For example, agreements negotiated by organized nurses frequently provide for employee participation in decisions relating to the general improvement of patient care—an area closely related to their professional expertise but also central to the responsibility of hospital management. *See e.g.*, Employment Agreement Between Southwest Washington Hospital Council and the Washington State Nurses Association (Bureau of Labor Statistics No. 551759), Articles XVII, XVIII; Agreement between the Associated Hospitals of San Francisco and the East Bay and the California Nurses Association (BLS No. 7974) Article XXIII. Symphony orchestra musicians have negotiated agreements providing for musician participation, and sometimes control, over the hiring and firing of their colleagues. Some of these agreements provide as well for musician

If the decision below may not fairly be read as attaching to "negotiated influence" the same consequences as to "consensual influence," [34] its necessary effect is to require employees to choose between the two. For if employees like the Yeshiva faculty achieve a substantial level of influence on management through means other than formal collective bargaining, they may well be deemed "managerial employes," foreclosed thereafter from engaging in collective bargaining under the Act. This would clearly be unwarranted. For employees who influence management decisions may still see collective bargaining as the more effective means for dealing with their employers on issues more directly relating to "wages, hours, and other terms and conditions of employment."

Finally, the decision below imposes on the Board and on faculty employed at privately supported institutions of higher education a legal standard which is impossible to administer and which will inevitably result in unstable relations between faculties and the administrations and governing boards at such institutions. If the decision below stands, the rights of faculty to engage in collective bargaining under the NLRA will depend not on an evenly applicable rule of law, but rather on shifts in the climate

---

participation in the selection of orchestra conductors and for some degree of "artistic control." *See e.g.*, Articles of Agreement Between Houston Symphony Society and Houston Professional Musicians Association, Local Union No. 65, American Federation of Musicians (BLS No. 541803) Articles V, VII, VIII, XIII, XXIV; Agreement Between San Francisco Symphony Association and Musicians Union of San Francisco, Local No. 5, American Federation of Musicians (BLS No. 550372) Article XVII; *cf. Bures* v. *Houston Symphony Society*, 503 F.2d 842 (5th Cir. 1974).

[34] This would surely be anomalous, since "negotiated influence" is fixed by a legally binding agreement, while "consensual influence" can be modified by the unilateral action of an institution's governing board.

of institutional relationships.[35] The burden this places on the Board and the parties is obvious. It will require a complex fact-finding process in every case to determine whether faculty are covered employees. The Board will be required to assess in each case the extent of faculty participation in governance matters, and the degree to which an institution's administration and governing board abide by faculty recommendations.

Faculties with little or no influence will be accorded bargaining rights. Thereafter, they will seek to increase their influence. If they are too successful, their bargaining rights may well be placed in jeopardy. Conversely, an influential faculty, denied bargaining rights by reason of that influence, may see its influence decline. It could well be that a new administration or governing board could choose to dispense with the faculty advice which had strongly influenced the actions of their predecessors, and thus strip the faculty overnight of their "management" status. Presumably, the faculty could then petition the Board again for bargaining rights, this time successfully.[36] The rights conferred by the National Labor Relations Act should not be made to rest on such shifting sands.

---

[35] "The areas of decision-making in which the faculty, as individuals, as groups (committees or departments), or as a whole—is granted an opportunity to participate vary from institution to institution, as tradition, the aggressiveness of the faculty, and the nature and attitudes of the president and trustees dictate." J. CORSON, THE GOVERNANCE OF COLLECTIVE AND UNIVERSITIES, 239 (1975). *See also* Finkin, *Collective Bargaining and University Governance*, 57 AAUP BULL. 149 (1971).

[36] The Act bars the conduct of a collective bargaining election within twelve months of another election held within the same unit. Section 9(c)(3), 29 U.S.C. § 159(c)(3). Other than this time bar there appear to be no significant impediments to the filing of a new election petition after an earlier petition has been dismissed. *See* Subpart C, Rules and Regulations, National Labor Relations Board.

C. *The Employee Influence Test Announced By The Court Below Will Effectively Nullify The Act's Coverage Of Professional Employees.*

During the hearings conducted prior to enactment of the Taft-Hartley Act Congress had before it emphatic testimony to the effect that professional employees generally were a part of management and should, accordingly, be excluded from the Act's coverage.[37] Congress rejected this advice when it enacted sections 2(12) and 9(b) of the Act, 29 U.S.C. §§ 152(11) and 159(b), respectively defining professional employees and providing them with presumtively separate bargaining units.[38]

Since the Taft-Hartley Act's extension of coverage to professional employees, the Board has consistently resisted

---

[37] HEARINGS ON AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT BEFORE THE HOUSE COMM. ON EDUC. AND LABOR, 80th Cong., 1st Sess. 1225 (1947); HEARINGS ON S. 55 AND S.J. RES. 22 BEFORE SENATE COMM. ON LABOR AND PUB. WELFARE, 80th Cong., 1st Sess. 694 (1947). *And see* Finkin, *The Supervisory Status of Professional Employees*, 45 FORDHAM L. REV. 805 (1977).

[38] Section 2(12) of the Act defines professional employees as "(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a)."

Section 9(b) confers on the Board broad discretion to decide on the appropriate bargaining unit: "Provided, That the Board shall not (1) decide that a unit is appropriate . . . if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit . . ."

the claim that professional employees, by virtue of their influence on management, are "managerial employees." For example, the Board held in *Westinghouse Electric Corp.*, 113 N.L.R.B. 337, 339-40 (1955):

> *While manufacturing engineers make recommendations on matters which are of great importance to management, that factor is usually present in the work of all professional employees, and does not in and of itself make them part of management so as to preclude their inclusion in a professional unit.* Indeed, this common factor, in our opinion, was one of the reasons why Congress specifically provided for the establishment of separate professional units. To justify the exlusion of individuals otherwise qualified for inclusion in a professional unit upon the ground that they are too closely allied to the employer to be regarded as employees under the Act, we believe that *it must be established that the individuals in question have interests and duties not shared by the other professionally engaged employees.* (Emphasis supplied.)[39]

And in *General Dynamics Corp.*, 213 N.L.R.B. 851, 857-858 (1974), the Board observed:

> Work which is based on professional competence necessarily involves a consistent exercise of discretion and judgment, else professionalism would not be involved. Nevertheless, *professional employees plainly are not the same as management employees either by definition or in authority, and managerial authority is not vested in professional employees merely by virtue of their professional status, or because*

---

[39] *See also Westinghouse Electric Corp.*, 97 N.L.R.B. 1271, 1272 (1952) in which the Board, after noting that the employer's "methods engineers" make "no individual policy decisions on a policy level," held that "mere participation in conferences of supervisory personnel from which emerge some decisions based in part upon . . . recommendations [of the methods engineers] does not give [them] managerial status."

work performed in that status may have a bearing on company direction. Likewise, technical expertise in administrative functions which may involve the exercise of judgment and discretion does not confer executive-type status upon the performer. A lawyer or a certified public accountant working for, or retained by, a company may well cause a change in company direction, or even policy, based on his professional advice alone, which, by itself, would not make him managerial. (Emphasis supplied.)

The extension of the "managerial employee" exclusion to those individuals who exert an informed influence on their employer's policies runs directly against the Act's explicit coverage of professional employees. Section 2(12) itself expressly contemplates that professional employment involves the "consistent exercise of discretion and judgment." In so defining the professional employee, Congress doubtless understood that such employees—more than others—would regularly exert influence on their employers. And Congress gave professional employees separate bargaining units in order to protect their interest "in maintaining certain professional standards." S. REP. No. 105, *supra*, note 22, at 11.[40] To hold that an

[40] Professional employees create special problems for the institutions which employ them. More than most others, professional employees generally demand autonomy in their work and relative freedom from supervision. They expect their work to be judged by their peers, and they reject evaluation by non-professional managers even though they may occupy positions of bureaucratic authority. Moreover, the loyalties of professional employees are frequently divided between their discipline and their employer. *See e.g.*, Finkin, *The Supervisory Status of Professional Employees, supra*; W. Kornhauser, SCIENTISTS IN INDUSTRY, 201-202 (1962); Strauss, *Professionalism and Occupational Associations*, INDUSTRIAL RELATIONS (May 1963). These aspects of professionalism inevitably generate tensions between professional employees and managerial authority, tensions which are partially accommodated through the development of parallel and overlapping decision-making processes. As one commentator has observed:

"[The professional employee's] fondest wish is to be left alone; they make the point that in scientific work it seems rational to

employee's exertion of such influence makes him a "manager" beyond the protection of the Act will plainly frustrate the intent of this extension of coverage.

To be sure, professional employees may also be "managerial employees," just as managers may also be professionals. But managerial status derives from more than the mere exertion of influence on company policy. The engineer who tells the company how the bridge must be built, the architect who imposes the imperative of design on the wishes of the construction company, and the faculty member who insists on a major voice in curriculum decisions, do not exert the kind of influence which is contemplated as "managerial" under the Act.

The court below, of course, recognized the professional status of the faculty. It declined, however, to accept the Board's analogy of faculty influence to that exerted by other professionals, because, apparently, it believed that faculty influence on the educational enterprise is greater than the influence of professionals in industry. 582 F.2d at 698. But even assuming the validity of the court's conclusions as to the degree of the faculty influence at

do just that, that basic discoveries stem not from managerial direction but from the scientist following up his own initial hunches and the leads he develops as he proceeds. Management has found such men difficult to deal with; their morale suffers easily from traditional forms of management, and they present unusual demands on management to change and accommodate. *In this situation, professional authority and bureaucratic authority are both necessary, for each performs an essential function: professional authority protects the exercise of the special expertise of the technologist, allowing his judgment to be preeminent in many matters. Bureaucratic authority functions to provide coordination for the work of the technologists with the other major elements of the firm. Bureaucratic direction is not capable of providing certain expert judgments; professional direction is not capable of providing over-all coordination.*" Clark, *Faculty Organization and Authority*, in ACADEMIC GOVERNANCE, J. BALDRIDGE, ed. (1971) 243. (Emphasis supplied) *See also* BALDRIDGE, POWER AND CONFLICT IN THE UNIVERSITY (1971) 114.

Yeshiva, rights under the Act ought not depend on such subtle gradations in employee influence.

II. The Yeshiva University Faculty Are Not "Managerial Employees" And Are Entitled To The Full Protections Of The National Labor Relations Act.

A. *The Faculty Governance Role Does Not Bring Them Within The Board's Definition Of "Managerial Employees."*

Although the faculty at Yeshiva University, like their counterparts at many American colleges and universities, play an important role in the governance of their institution, the character of this faculty governance role is not that contemplated by the Board's definition of "managerial employees." That definition, as we have shown, see Part IA, pp. 11-14, *supra*, requires that "managerial employees" possess the discretion to "formulate, effectuate and determine" the policies of their employing institutions, and to do so from a position of "alignment" with management. Far from being so "aligned," the faculty are manifestly independent and separate from management. The court below appears to have recognized this when it observed that "most university facilities enjoy a state of *independence* and influence on policy which is 'entirely unknown among the professionals in private industry.'" 582 F.2d at 698 (Emphasis supplied; citations omitted.)

But the court below missed the import of this marked "independence" from management. Rather than perceiving that it tends to refute any claim that the faculty are aligned with their administration and governing board, the court held instead that faculty could not be compared to professionals in industry simply because their "independence and influence" are so much greater. 582 F.2d at 698. But a high degree of independence from management must operate to negate any claim of "managerial"

status, notwithstanding the fact that such independence is coupled with a high degree of influence.

The Board has frequently recognized that when the faculty makes its recommendations to the administration and governing board, it acts not for management but rather in its own professional interests. For example, in *Adelphi University*, 195 N.L.R.B. 639, 648 (1972), commenting on the status of elected members of faculty personnel committees which have "considerable and effective authority with respect to a wide range of actions affecting the status of the University's professional personnel," the Board observed:

> It is also clear that the board of trustees . . . has not attempted to convert the committees into managerial or supervisory entities. They are not advised to advocate management's interests in making their decisions, nor are they advised that they are management's representatives in making them.

Indeed, were faculty charged with speaking for management in making their recommendations, it would defeat the very purpose for which such advice is sought in the first place: management's need for the very best professional judgment possible on a variety of critical matters in which neither the administration nor the governing board enjoys any particular expertise.

Faculty independence from management is further evidenced by the fact that "faculty members are generally not held accountable by or to the administration for their faculty governance functions." *Northeastern University*, 218 N.L.R.B. 247, 257 (1975) (Member Kennedy, concurring.) Similarly, "[f]aculty criticism of administration policies . . . is viewed not as a breach of loyalty, but as an exercise in academic freedom." *Id.*

B. *Faculty Members' "Job Responsibilities" Do Not Include The Exercise Of Any "Managerial" Function, Though Considerable Faculty Influence Does Result From Their Specialized Expertise.*

The "job responsibilities" of the faculty member—at Yeshiva and elsewhere—are to teach and to carry out research. These responsibilities carry with them a high level of autonomy. The court below conceded as virtually self-evident the faculty member's "authority to determine the content of his course, the method he employs in teaching it, and the evaluation of his students' academic performance" and acknowledged that "these attributes of professionalism should not characterize them as managerial or supervisory." 582 F.2d at 697-98. Obviously, then, management relies heavily on faculty judgment in these important areas.

The court of appeals thus necessarily rested its finding of "managerial" status on faculty influence outside the classroom and laboratory. It is apparent that faculty advice and assistance are valued, arguably required, if higher education management is to reach intelligent decisions as to educational policy. Faculty members' expertise and first-hand knowledge of their disciplines and the demands of effective instruction and productive research is an indispensable resource in a university. This fundamental proposition is widely recognized. As the former Controller of Teachers College, Columbia University, observed, "the board [of trustees] in fulfilling its responsibilities for management, requires the aid of the faculty . . . because the Board does not, unaided, possess the best judgment in all matters involved." T. HUNGATE, MANAGEMENT IN HIGHER EDUCATION 66-67 (1964).[41]

[41] To similar effect is a leading study of academic governance:

> "Decision-making in the university must involve the teacher-researcher "on the assembly line" because he chiefly knows intimately what the "production" of the university is all about; it is his immediate proximity to the personal tensions of learning and scholarly creation which give legitimacy to much of the decision-making in the academic community." H. MASON, COLLEGE AND UNIVERSITY GOVERNMENT, 1 (TULANE STUDIES IN POLITICAL SCIENCE, VOL. XIV, 1972).

Faculty exercise their influence most consistently and effectively in the area of faculty personnel matters. Just as it is impracticable for higher education management to exercise control over the faculty member's activities in the classroom, library, or research laboratory, so too higher education management lacks the necessary expertise to evaluate the work of faculty members. As a result, the primary responsibility for faculty evaluation normally resides in the academic department whose members share a common discipline. And it is simply good management to rely heavily on the judgments which emanate from an individual's departmental colleagues.

Moreover, the faculty's influence on the establishment of admission and degree requirements is a straightforward extension of their acknowledged individual responsibility for the "evaluation of [their] students' academic performance." 582 F.2d at 697. The same is true of the faculty's role in decisions regarding the retention of marginal students.[42] Similarly, the faculty's natural interest in the University's curriculum, and the consequent reliance of the administration and governing board

[42] The court below commented on the fact that the decision to drop a student results in a tuition loss. 582 F.2d at 690-91. But the budgetary significance of this faculty activity—which is clearly related to their general authority to evaluate students—is no greater than in the case of individual faculty decisions to employ certain textbooks or to use laboratory facilities to teach a course. These are decisions which also have a marked budgetary significance but which the court below concluded would not render them managerial employees. *Cf. Western Electric Co.*, 100 N.L.R.B. 420, 422 (1952), where the Board held that an employer's stock maintainers were not managerial employees, though their performance was critically important, and their recommendations, or errors in their judgments, could easily impose a substantial cost on the employer.

on faculty advice in this area, flows directly from their professional expertise. Obviously, the faculty, more than any other component of the college or university community, knows what it can teach and what is worth teaching. And, equally obviously, the formulation of the curriculum is central to their professional concerns, quite apart from their unique expertise.

In sum, when the nature and extent of faculty influence are measured against the imperatives of faculty expertise, it is plain that their influence flows from this expertise and not from any "management" responsibility delegated to them by their governing board.

C. *Institutions Of Higher Education—Including Yeshiva University—Are Organized To Include A Discrete Managerial Function, Responsibility For Which Is Neither Vested In Nor Performed By The Faculty.*

It may well be that, in an ideal collegial system, with responsibility diffused throughout a body of peers, there is no separate management role. But this ideal collegial model, whether or not possible or desirable, does not now exist in American higher education.[43] Institutions of higher education have become complex and diversified enterprises which require an administrative hierarchy, responsible directly to the governing board and with a direct stake in the success of the institution as a whole, to provide overall direction and management for the university.[44] By contrast, most faculty members are possessed of intensely specialized expertise and are primarily concerned with teaching and research in their own disciplines.

The faculty of course have an interest in the success and well-being of the institution which employs them; certainly they will suffer the consequences if things go sour. But their professional commitments align them as much with their discipline and the nationwide community of scholars devoted to it as with their employing institution.[45] Faculty are not hired to manage the institution, but rather to contribute, through teaching and scholarship, to the institution's broader mission. It is the college or university president and his administrative aides who have the most immediate interest in and identity with the success of the enterprise and its day-to-day operation. And this interest and identity "concentrate[s] the *responsibility* for the success of the institution on the president and his staff." J. CORSON, THE GOVERNANCE OF COLLEGES AND UNIVERSITIES, 84 (rev. ed. 1975). (Emphasis supplied.)

Most of these functions do not involve the faculty. Most notably, the activities necessary to insure the financial soundness of the institution (i.e., fundraising, cost analyses, and the allocation of funds across the various components of the institution) are carried out by the president and his budget committee largely independent

[43] J. BALDRIDGE *et al.*, POLICY MAKING AND EFFECTIVE LEADERSHIP 17 (1978). *See also Adelphi University*, 195 N.L.R.B. 639 (1972).

[44] Yeshiva University is no exception. At the top of the administrative hierarchy is the President who is a member of and reports to the Board of Trustees. Under the President are Vice-Presidents for Academic Affairs and Student Affairs. Other administrative officers include the Registrar, Bursar, and Director of Admissions. For each of the University's schools there is a dean who serves as the chief administrative officer. In addition, there is an Executive Council, consisting of the deans and directors of various administrative divisions. The Council has jurisdiction over "all of the academic and administrative problems of the University." The Council is "primarily a recommending body," recommending policies and procedures "to the President who then issues directives." Finally, there is a budget committee, appointed by the President and consisting of the Vice-President for Business Affairs, the Registrar and a dean, with broad authority over the budget. *See* Labor Board Petition for Certiorari, at 4-5.

[45] BALDRIDGE *et al.*, *supra*, 22-23.

of the faculty. While faculty may sometimes be afforded a role in the allocation of funds within the educational program, this role often varies with the state of the institutional economy.[46] The decision that budget cutbacks must be undertaken to preserve the financial integrity of the institution is largely a management decision. On the other hand, what part of the educational program is to be cut is a professional decision—one where the faculty can be expected to play a major, and perhaps decisive, role by making recommendations which are accepted by management. At Yeshiva, for example,

> In response to growing budgetary limitations, a faculty committee on personnel and budget has made generally effective recommendations concerning elimination of elective courses, the establishment of joint courses, and other scheduling changes. 582 F.2d at 691.

Even in the areas of "academic" decision-making (*i.e.*, faculty personnel matters, curriculum changes, admission and degree-granting requirements and the like), where the faculty ordinarily play a major part, management plays a role separate and apart from the faculty. The decision-making process itself is structured at Yeshiva in a fashion which belies the attempt of the court below to characterize it as a homogeneous faculty-administration effort. It is true that some decisions, particularly faculty personnel decisions, are initiated by the faculty. But the faculty role consists of passing on to the administration their recommendations.[47] At the initial

[46] For example, the court below noted that, at Yeshiva, "[*u*]*ntil the budget cutbacks of the last few years* every aspect of the budget was deliberated by the [Chairmen's] Council." 582 F.2d at 693. (Emphasis supplied.)

[47] "While deference is paid to faculty judgment in areas where they are expert and in which they share a mutual professional concern, overall responsibility for the University's operation remains at all times with the administration and ultimately with the Board of Trustees." *Northeastern University, supra*, at 257 (Member Kennedy, concurring.)

stage the interaction between faculty and administration may in some cases be sufficiently close to warrant the conclusion that the two levels are acting in harmony and with considerable mutuality of interest.[48] But as the recommendations are passed on to higher administrative levels, the management responsibility becomes more clearly distinct. For example, an administrative decision to deny tenure may reflect budgetary constraints unrelated to the academic qualifications of the individual in question.

The responsibility of the administration is to manage the diversity which characterizes any institution of higher education. Possessed of faculty recommendations on a variety of matters from all quarters of the university, it is the job of the administration to weigh these recommendations against each other and to reconcile them with what is in their judgment the best interest of the institution as a whole. Just as the unique expertise of the departmental faculty requires that they play an integral part in the evaluation of their colleagues, so too the administration's knowledge of the overall needs of the institution makes it necessary that they possess overall responsibility for its day-to-day operations. This fundamental point, that responsibility and authority is vested in a discrete management corps, subject in turn to a governing board, is not altered by a heavy reliance on faculty advice or even by the delegation of some initiating responsibility to the faculty.

[48] Academic deans, generally regarded as the "front line" of management, often have a close identity with the faculty and with their own academic discipline. They frequently view their deanship as a temporary withdrawal from their primary academic interests. *See* CORSON, *supra*, at 83.

CONCLUSION

For the foregoing reason the decision of the court of appeals should be reversed and the Labor Board's order, requiring Yeshiva University to bargain with its full-time faculty, enforced.

Respectfully submitted,

WOODLEY B. OSBORNE
1 Dupont Circle, N.W.
Washington, D.C. 20036

Attorney for American Association of University Professors

Amicus Curiae

Of Counsel:

VICTOR J. STONE
College of Law
University of Illinois
Champaign, Illinois 61820

ROBERT A. GOLDSTEIN
150 East 58th Street
New York, New York 10022

APPENDIX

APPENDIX

This appendix is comprised of representative provisions from collective bargaining agreements covering bargaining units consisting chiefly of full-time faculty at privately supported institutions of higher education. Part I contains provisions relating to faculty participation in what are generally referred to as matters of academic governance: curriculum, degree requirements, admission requirements, the grading system, teaching loads and budgetary matters. Part II summarizes provisions relating to faculty participation in matters relating to faculty status: initial appointments, reappointments, promotion and tenure.

The full texts of the agreements cited in this Appendix are available through the Bureau of National Affairs, Washington, D.C. or the National Center for the Study of Collective Bargaining in Higher Education, 155 East 24th Street, New York, New York.

Except where otherwise indicated, each of the bargaining relationships covered by this Appendix was established following an NLRB-conducted election.

I. GENERAL "GOVERNANCE" PROVISIONS

Fairleigh Dickinson University (New Jersey)—

> The Agreement establishes faculty "governance" committees on departmental, college and campus levels charged with advising the administration on a wide range of matters of educational policy. For example, the Agreement creates, for each college, a College Educational Planning Committee which is, among other things, "to engage in short-term and long-term planning for the college," review curricular recommendations, and "propose educational policies, college-

wide academic standards and requirements, admissions standards, and criteria and standards for honors work within the college . . ." (Article 11)

The Agreement also provides for a campus-wide faculty Committee on Buildings and Grounds, which, among other things, is to "participate in the planning and development of new building construction and major alternatives to existing buildings and grounds." (§ 8.86)

The Agreement provides for faculty participation in the selection of administrators, up to and including the President. (Article 14)

The Agreement provides for the establishment of a "University Commission," made up largely of faculty members, when, "in the view of the President, the University's problems are of such magnitude and complexity as to be inappropriate for examination by any college or campus planning agency. . ." (Article 17)

Adelphi University—

The Agreement provides that the faculty Constitution "shall provide continuance of existing rights, privileges, and responsibilities of the faculty to participate directly through the Senate in its own governance and in the initiation of the decisions on educational policy and standards within the University." (Article VI)

Antioch College School of Law—

The Agreement gives faculty non-voting representation on the Board of Trustees. (Article XXII)

Ashland College (Ohio)—

The Agreement creates a joint Board of Trustees/faculty committee to assess the college's financial condition. If reductions in faculty positions are deemed necessary, the agreement requires prior consultation with the faculty senate.

Dowling College [1] (New York)—

Faculty are responsible under the Agreement for making recommendations regarding the operating budget and course offerings of their respective divisions. A joint faculty-administration senate has "full authority and responsibility" to determine admissions policies, approve the granting of degrees, award sabbatical leaves, approve the curriculum, and to establish the policy regarding the disbursement of financial aid and scholarship funds. (Article III)

Marymount College (New York)—

The Agreement states that the College Board of Trustees and President "are aware of the necessity for involving faculty in genuine participation in decisions covering educational policy . . . [and recognize] the necessity of faculty participation in educational policies which the faculty will be largely responsible for implementing."

Noting that the Board and President "reserve the right of veto on all matters," the Agreement establishes the "President's Council," consisting of the President, two deans, four faculty members and three students. The Council is to make

[1] This bargaining relationship was established by voluntary recognition.

recommendations regarding the instructional budget, long range planning, tuition and fees and the College's several goals and priorities. (B2.31)

Rider College [2] (New Jersey)—

The Agreement establishes faculty committees on the school and college level with the responsibility to "develop academic policy proposals on such items as curriculum, graduation requirements, . . . and other matters of an academic nature traditionally handled by the faculty . . ." (Article XI)

St. John's University [3] (New York)—

The Agreement provides that the "faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. . . . The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy." (Article II)

The Agreement provides for faculty participation in the selection of deans. (Article VIII) The Agreement expressly provides that either the faculty or the administration may "initiate action" to eliminate or reduce academic programs or departments, with ultimate authority residing in the Board of Trustees. (Article XIX)

[2] This bargaining relationship was established by voluntary recognition.

[3] This bargaining relationship was established after an election conducted pursuant to the provisions of New York's "little Wagner Act."

University of Detroit—

The Agreement requires prior consultation with faculty prior to any decision to reduce the number of faculty positions. (Article VII)

University of Dubuque—

The Agreement establishes a "Program Development Committee," consisting of three faculty members, the Dean and one student, to make recommendations to the Dean regarding curriculum, teaching assignments and new degree programs. (Article 33)

The Agreement also establishes a similarly constituted "Institutional Advancement Committee" which is to consult with the University administration regarding budgetary decisions, proposals to reduce faculty positions and significant capital improvement programs. (Article 35)

Utica College of Syracuse University—

The Agreement establishes a curriculum committee, consisting of five faculty members, one librarian and one administrator, to recommend course changes, credit hour changes and standards and policies governing all permanent courses and curricula. (Article VIII)

The Agreement establishes an "Academic Standards Committee," consisting of six faculty members, which makes recommendations to the President regarding admission and degree requirements. (Article VIII)

Wagner College (New York)—

The Faculty Handbook, incorporated by reference into the Agreement, provides for a "Faculty Council," consisting of nine faculty members

and the President and Academic Vice President, *ex officio*, with responsibilities to oversee and evaluate the academic program, receive and evaluate reports of faculty committees, and "act as a channel of communication between the administration and the faculty in regard to the framing and execution of long-range plans, basic decisions regarding existing and prospective physical resources, and budgetary matters." The Faculty Handbook also provides for faculty committees with responsibilities over, among other things, admission policies, grading policies, degree requirements, curriculum, and faculty workload.

Bard College (New York)—

The Agreement provides that "the existence of a financial exigency which may warrant the termination of a continuous appointment shall be determined by the mutual agreement of the President and the Executive Committee of the [faculty union]." (Article VII)

University of Bridgeport—

The Agreement provides for the creation of a "University Productivity Committee," consisting of three people appointed by the President and three by the faculty union. The Committee is to review and approve "productivity" plans submitted to it by the colleges within the University. (Article 9)

The Agreement further provides that "[t]he University shall not implement any personnel decision affecting a member of the bargaining unit which is made for financial reasons unless the decision is pursuant to a college plan approved by the UPC." (Article 9)

II. CLAUSES GOVERNING DECISIONS RELATING TO FACULTY STATUS

Antioch College School of Law—

Initial appointments to faculty positions are not to be made without "prior approval by a majority vote of the faculty." (Article XIII)

Bloomfield College (New Jersey)—

Initial appointments to faculty positions are not to be made without approval of a majority of the faculty members in the candidate's discipline. Faculty to play "the major role" in all decisions relating to faculty status. (Article V)

Dowling College (New York)—

The faculty, through division coordinators, are responsible for making recommendations regarding the hiring of full- and part-time faculty. (Article III)

Hofstra University—

The Agreement establishes detailed procedures whereby faculty, through a committee structure, make recommendations to the University administration regarding the appointment, reappointment, promotion and tenuring of faculty. The Agreement further requires the administration to give "great weight" to such recommendations. (Article VI)

Long Island University (Brooklyn Center)—

The Agreement provides that "[t]he responsibility for evaluating the credentials and performance of faculty members and for determining their eligibility for appointment, reappoint-

ment, promotion, and tenure rests principally with the faculty." The Agreement further provides that "the recommendations of the Faculty Review Committee will be followed except for compelling reasons . . ." With regard to initial appointments, the agreement provides that "all applicants for available . . . faculty positions shall be reviewed and approved by a majority of the qualified voters of the department . . ." (Article VII)

Loretto Heights College (Colorado)—

The Agreement creates a Standing Committee on Tenure which is to make recommendations to the College President regarding candidates for tenure. The President must state his reasons in the event of disagreement with the Committee and meet with it, if requested, to discuss those differences. (Article V)

Marymount College (New York)—

The Agreement establishes a faculty rank and tenure committee charged with reviewing and making recommendations regarding matters of promotion, tenure, emeritus status, and sabbatical leaves. (Article A1)

New York Institute of Technology [4]—

With regard to initial appointments to faculty positions, the agreement provides that a Departmental Personnel Committee "shall conduct the search for and the evaluation of applicants . . ." (Article XI) These Committees are also responsible for making recommendations regarding reappointment and promotion decisions. (Article XII)

[4] This bargaining relationship was established following an election conducted under the provisions of New York's "little Wagner Act."

Rider College [5] (New Jersey)—

The Agreement establishes a Promotion and Tenure Committee made up of an equal number of administrators and tenured faculty members. This Committee receives departmental recommendations on promotion and tenure decisions and forwards its own recommendations to the College's Board of Trustees. Both the Committee and the Board of Trustees are enjoined not to "arbitrarily substitute their judgments on the professional expertise of the candidate for properly documented judgments presented in the departmental recommendation." (Article VI)

St. John's University [6] (New York)—

The Agreement provides that initial appointment decisions are to be made by the departmental personnel and budget committee. (§ 5.1) Where the President wishes to "infuse new life into a department," he may designate the desired qualifications and, on the failure of the departmental committee to recommend an acceptable candidate, the President may make the appointment himself. (§ 5.5)

University of Bridgeport—

The Agreement provides that "[s]ubject to review by the President of the University, the faculty shall have primary responsibiilty with regard to all academic appointments, renewals or non-renewals of such appointments, promotion, and tenure. On such matters, the President shall concur with the faculty judgments

[5] See note 2, *supra*.

[6] See note 3, *supra*.

except in rare instances and exceptional circumstances for compelling reasons written in detail which shall not be arbitrary nor capricious." (Article 8)

University of Detroit—

The Agreement provides for the creation of a Faculty Status and Promotion Committee with responsibility for making recommendations to the administration concerning promotion and tenure decisions. (Appendix A)

Lowell Technological Institute—

Initial appointments to faculty positions are to be made by recommendation of the faculty. When recommendations are rejected, the process is repeated. (Article E) The Agreement also provides for the establishment of a Faculty Tenure Committee to make recommendations to the President regarding "tenure and removal from position." (Article D)

Utica College of Syracuse University—

The Agreement establishes a Faculty Affairs Committee to make recommendations regarding promotion, tenure, and reappointment decisions. In the event of irreconcilable differences between the Committee and the College President, both recommendations are submitted to the University Chancellor for final decision. (Article VIII)

Fairleigh Dickinson University (New Jersey)—

The Agreement sets forth a detailed and elaborate structure of faculty committees charged with responsibility for making and reviewing recommendations regarding appointment, reappointment, promotion and tenure. (Articles 10, 11)

Supreme Court, U. S.
FILED
MAY 4 1979
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD

Petitioner,

v.

YESHIVA UNIVERSITY

Respondent.

No. 78-997

YESHIVA UNIVERSITY FACULTY ASSOCIATION

Petitioner,

v.

YESHIVA UNIVERSITY

Respondent.

On Writs of Certiorari to the United States Court of Appeals for the Second Circuit

Brief of the National Education Association, Amicus Curiae.

DONALD H. WOLLETT
3200 5th Avenue
Sacramento, CA 95817
ROBERT H. CHANIN
1201 16th St., N.W.
Washington, DC 20036
Attorneys for
Amicus Curiae.

3 3 PRINTED IN U.S.A.

INDEX

Page

TABLE OF AUTHORITIES ii

INTEREST OF *AMICUS CURIAE* 1

QUESTION PRESENTED 3

STATEMENT 3

ARGUMENT 4

I. GOVERNANCE MECHANISMS AND PROCEDURES HAVE NO BEARING ON THE QUESTION OF WHETHER FACULTY MEMBERS AS A GROUP CONSTITUTE AN APPROPRIATE BARGAINING UNIT UNDER THE NLRA 4

A. Governance systems do not vest supervisory or managerial *authority* in the faculty 4

B. Both Section 2(11) of the NLRA defining the supervisory exclusion and *NLRB* v. *Bell Aerospace* enunciating the standard for determining the identity of managerial employees require a finding of *individual* supervisory or managerial activity 8

C. Faculty participants in governance do not function "in the interest of the employer" nor do they formulate, determine, and effectuate "employer policies"; thus, they are neither supervisors under Section 2(11) of the NLRA nor managerial personnel under *Bell Aerospace* 10

II. AFFIRMANCE OF THE COURT OF APPEALS DECISION WILL HAVE SERIOUS ADVERSE PRACTICAL CONSEQUENCES IN THE PUBLIC AS WELL AS THE PRIVATE SECTOR AND IN ELEMENTARY AND

Page

SECONDARY EDUCATION AS WELL AS HIGHER EDUCATION 11

CONCLUSION 15

TABLE OF AUTHORITIES

CASES:

Aberdeen Education Association v. *Aberdeen Board of Education*, 88 S.D. 127, 215 N.W. 837 (1974) ... 12

Adelphi University and Adelphi University Chapter AAUP, 195 N.L.R.B. 639 (1972) 7, 8

Bell Aerospace and International Union U.A.A.A.I.W.A., 219 N.L.R.B. 384 (1975) 9, 10

City of Madison Joint School District No. 6 v. *Wisconsin Employment Relations Bd.*, 429 U.S. 167 (1976) 4

C. W. Post Center of Long Island University and United Federation of College Teachers, 189 N.L.R.B. 904 (1971) 7, 8

Detroit Police Officers Union v. *City of Detroit*, 391 Mich. 44, 214 N.W.2d 803 (1974) 11

Fordham University, 193 N.L.R.B. 134 (1971) 8

National Education Association of Shawnee Mission v. *Board of Education*, 212 Kan. 741, 512 P.2d 426 (1973) 12

NLRB v. *Bell Aerospace Co.*, 416 U.S. 267 (1973) ... 8

NLRB v. *Mercy College*, 536 F.2d 544 (2d Cir. 1976) 10

NLRB v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975) 9, 10

NLRB v. *Yeshiva University*, 582 F.2d 686 (2d Cir. 1978) 4

Page

Northeastern University and Northeastern Faculty Organization, 218 N.L.R.B. 247 (1975) 8

Pennsylvania Labor Relations Board v. *State College Area School District*, 401 Pa. 494, 337 A.2d 262 (1975) 12

University of Miami and University of Miami Chapter AAUP, 213 N.L.R.B. 634, (1974) 8

STATUTES:

National Labor Relations Act
29 U.S.C. § 151 et. seq. ..... *passim*
§ 152(3) 10
§ 152(11) 7, 8, 9, 10
§ 152(12) 11

MISCELLANEOUS:

American Association for Higher Education (National Education Association), *Faculty Participation in Academic Governance, Report of the AAHE Task Force* (1967) 5, 6

Edwards, H., "The Emerging Duty to Bargain in the Public Sector," 71 *Mich.L.Rev.* 885 (1973) 12

Mason, H., "Faculty Unionism and University Governance," *New Directions in Higher Education*, Jossey-Bass Inc. San Francisco Vol. II, No. 1 Spring (1974) 5

McDonnell and Pascal, *Organized Teachers in American Schools*, Rand Corp. (1979) 13

Oberer, W., "Faculty Participation in Academic Decision Making: As to What Issues, By What Persons, Using What Means of Persuasion?" *Employment Relations in Higher Education*, Phi Delta Kappa, Bloomington, Ill. (1969) 8

Wollett, D., "The Coming Revolution in Public School Management," 67 *Mich.L.Rev.* 1017 (1969) 13

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD

Petitioner,

v.

YESHIVA UNIVERSITY

Respondent.

No. 78-997

YESHIVA UNIVERSITY FACULTY ASSOCIATION

Petitioner,

v.

YESHIVA UNIVERSITY

Respondent.

On Writs of Certiorari to the United States Court of Appeals for the Second Circuit

Brief of the National Education Association, Amicus Curiae.

INTEREST OF AMICUS CURIAE

All parties have consented to the filing of this brief.

The National Education Association of the United States (NEA) is an organization comprised of more than 1.7 million professional educators. Founded in 1857, it was granted a corporate charter by special act of Congress in 1906. Its

purpose is to improve the character and advance the interests of the teaching profession and to promote the cause of education in the United States. Since the early 1960s, state and local education associations affiliated with NEA have been pressing for the establishment of collective bargaining relationships in elementary and secondary school districts, junior and four-year colleges, and universities throughout the United States. NEA has been a prime mover in the enactment of numerous state statutes providing for such bargaining in publicly funded educational institutions.

Over 11,450 local faculty associations, 800 of which are in post-secondary education, are affiliated with NEA. Approximately 3,500 of these faculty associations, about 300 at the college and university level, are engaged in collective bargaining, representing nearly two million teachers.

The Court below held that when university management gives its faculty substantial influence over decisions regarding hiring, compensation, and promotion, as well as academic standards, the entire faculty loses its right to participate in collective bargaining under the National Labor Relations Act.

Since the NLRA does not apply to public employment in the states, this decision has no direct applicability to publicly funded educational institutions. However, most courts and administrative agencies which interpret and apply state public sector collective bargaining statutes are influenced by decisions interpreting and applying the NLRA.

Accordingly, affirmance of the decision below would have an impact on public as well as private colleges and universities where faculty influence in management decision-making is commonplace. Furthermore, affirmance would have a disquieting effect on elementary and secondary school systems where faculty involvement in determinations regarding faculty status and academic standards, while not as prevalent as in higher education, is not uncommon.

QUESTION PRESENTED

Are faculty members who participate in decision-making regarding the hiring, compensation, and promotion of the faculty and the academic standards of the university managerial or supervisory employees excluded from the protection of the National Labor Relations Act?

STATEMENT

The line authority structure of a university or college is not significantly different from that which operates in other kinds of enterprises. The authority to make managerial and supervisory decisions is vested by a governing board in an administrative hierarchy — the president, the vice-presidents, the bursar and registrar, the deans and directors—in descending order of authority and responsibility. Each is accountable to the next highest level of the hierarchy for the way in which he exercises the power delegated from above.

What *is* different (where it exists, as it does at Yeshiva University) is a governance structure of councils, committees, and assemblies which parallels (but is not part of) the management structure, and which exists for the purpose of eliciting faculty advice with respect to a wide range of matters—what is taught, by whom, the number of teaching hours required, appointments, compensation, promotions, and tenure status of faculty, curriculum, admissions and graduation requirements, and other academic standards. At Yeshiva University management usually follows the faculty's advice on these matters.[1]

The full-time faculty of Yeshiva University, in an election supervised by the National Labor Relations Board, elected

---

[1] The management structure of Yeshiva University and the major components of the governance network for obtaining faculty input on matters concerning faculty status and academic standards are set forth in detail in the petition of the National Labor Relations Board for a writ of certiorari. (pp. 2-13).

the Yeshiva University Faculty Association as their collective bargaining representative by a substantial margin, thereby expressing in a clear and unmistakable way their dissatisfaction with their terms and conditions of employment. The management of the University refused to bargain on the ground that all faculty members, by reason of their group participation in governance, are supervisory or managerial personnel and outside the scope of the National Labor Relations Act.

The NLRB disagreed and ordered the University to recognize and bargain with the Association. The Court of Appeals refused to enforce the Board's order for the reason that the faculty "are, in effect, substantially and pervasively operating the enterprise", *NLRB* v. *Yeshiva University,* 582 F.2d 686, 698 (2d Cir. 1978), and are not, therefore, entitled to enjoy the rights of employees under the Act.

ARGUMENT

I. GOVERNANCE MECHANISMS AND PROCEDURES HAVE NO BEARING ON THE QUESTION OF WHETHER FACULTY MEMBERS AS A GROUP CONSTITUTE AN APPROPRIATE BARGAINING UNIT UNDER THE NLRA.

A. Governance systems do not vest supervisory or managerial *authority* in the faculty.

Governance systems exist for two reasons. Teachers are the "very core" of an educational system; their opinions on matters involving the operation of an educational program are critical if a managing board is to avoid impairment of its "ability to govern." *City of Madison Joint School District No. 8* v. *Wisc. Employment Rel. Bd.,* 429 U.S. 167, 177 (1976). Accordingly, a college or university management may establish a governance system because it thinks that systematic elicitation of faculty opinion on matters within the sphere of their professional competence is a sensible way to run an educational institution.

Governance systems have another function. They tend to ease tensions between management and the faculty and to improve morale. By contrast to lawyers and medical doctors who are traditionally self-employed and deal directly with their clients, establish their own criteria for admission to their professions, and enforce their own standards of good practice, professors generally attain and preserve their professional status on the basis of admission and practice standards established by colleges and universities. This is so because professors normally can serve their clientele only through an institutional intermediary. While the intrinsic aspects of teaching and research afford members of the profession greater discretion than most workers enjoy, a faculty member nevertheless is in a position where any effort to achieve a high degree of self-regulation as a professional is limited by his coincidental status as an employee. American Association for Higher Education (National Education Association), *Faculty Participation in Academic Governance, Report of the AAHE Task Force,* p. 21 (1967) (Hereinafter *AAHE Report*). These circumstances create fundamental tension between the faculty member and the university or college administration, springing from the dual role of the teacher who is at once a member of a profession and an employee. A governance system is an instrument of reconciliation which eases this tension by accommodating the aspirations of the faculty to be heard on matters of professional concern with the responsibilities of institutional management to make final decisions.

Governance procedures may come into being by reason of custom or practice or (as at Yeshiva University) by employer action through promulgation of a faculty handbook or similar document. They may also be created or legitimated by the provisions of a collective bargaining agreement. H. Mason, "Faculty Unionism and University Governance," *New Directions in Higher Education,* Volume II, No. 1, Spring 1974 at 6. The Appendix to the brief of the American Association of University Professors in support of the petition for a writ of certiorari sets forth a number

of such provisions in agreements between colleges and universities and faculty associations. Many affiliates of NEA are also party to agreements which provide for governance procedures. For example, the contract between the Board of Trustees of the University of Massachusetts and the Massachusetts Society of Professors gives the faculty primary responsibility for initiating personnel recommendations through departmental and college committees and for exercising primary responsibility in academic matters (*e.g.*, curriculum, subject matter, methods of instruction) through appropriate mechanisms maintained by management for eliciting faculty advice.[2]

The extent to which management follows faculty advice which flows through governance procedures ranges on an influence continuum from negligible (administrative primacy) at some institutions to substantial (faculty primacy) at others, such as Yeshiva University. The degree of faculty impact on management decisions may vary from issue to issue. For example, administrative primacy may operate with respect to a decision to raise tuition, while faculty primacy operates with respect to course content and teaching techniques. The position of a college or university on the continuum of faculty influence as to any given issue is determined by management, in the absence of an enforceable agreement. *AAHE Report*, pp. 14-18.

As the AAUP's Appendix, *supra*, demonstrates, the faculty's "authority" in governance systems as to most issues is limited to advising, proposing, recommending, developing, consulting, overseeing, evaluating, or channeling. Rarely if ever does the faculty's authority extend to "deciding" except as to a handful of issues within the clear ambit of professional discretion such as course content, textbook selection, and evaluation of student performance.

[2] The full text of this agreement is available from the Research Studies Unit, National Education Association, 1201 16th St., N.W., Washington, D.C. 20036.

The fundamental error of the Court below lies in its conclusion that the fact that Yeshiva University management usually follows the recommendations of the faculty means that they are, as a group, managerial or supervisory personnel. The court relied on Section 2(11) of the Act, 29 U.S.C. § 152(11) (1976), which includes as a supervisor employees who have the power "effectively to recommend."

The correct analysis of the quoted language and its meaning within the context of Section 2(11) is found in the NLRB's opinion in *Adelphi University and Adelphi University Chapter, AAUP*, 195 N.L.R.B. 639 (1972).

At issue in *Adelphi* was the question of the status of faculty members of the personnel and grievance committees. The former made recommendations to management with respect to decisions involving hiring, promotions, and the acquisition of tenure; the latter dealt with grievances involving tenure and promotion questions. The evidence showed that the administration almost always followed the recommendations of the two committees.

However, the Board was not misled by this fact. It refused to find that management acceptance of the collective judgments of a faculty group, generated by its independent consideration of the issues, amounts to an *a posteriori* investiture of management authority. A genuine vesting of authority in a faculty, acting as a group, would tend "to confound us," said the Board. 195 N.L.R.B. at 648. But there was no genuine vesting in *Adelphi* or in the earlier case of *C. W. Post Center of Long Island University and United Federation of College Teachers*, 189 N.L.R.B. 904 (1971), involving the status of the *entire faculty* as participants in a governance system. Nor is there vesting in the case here.

The collective judgment of a faculty on a matter of faculty status or academic standards, whether reached in a committee, a council, or an assembly, is not an exercise of authority to supervise or manage. It is, rather, an expression of consensus on a subject within the scope of faculty concern

and expertise as members of the professor profession. W. Oberer, "Faculty Participation in Academic Decision Making: As to What Issues, By What Persons, Using What Means of Persuasion?" *Employment Relations in Higher Education*, Phi Delta Kappa, Bloomington, Ill., pp. 132, 148 (1969). What happens to the faculty's judgment—whether it is accepted, rejected, or modified—remains in the hands of management.

B. Both Section 2(11) of the NLRA defining the supervisory exclusion and *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267 (1974), enunciating the standard for determining the identity of managerial employees require a finding of *individual* supervisory or managerial activity.

Section 2(11) requires an analysis of the authority of an "individual." Group activity does not make an employee a supervisor within the meaning of this language. This has consistently been the position of the N.L.R.B. *C. W. Post Center*, 189 N.L.R.B. 904 (1971); *Adelphi University*, 195 N.L.R.B. 639 (1972); *Northwestern University*, 218 N.L.R.B. 247 (1975); *University of Miami*, 213 N.L.R.B. 634 (1974); and *Fordham University*, 193 N.L.R.B. 134 (1971).

The Court below criticized this position on the ground that the "Board's rationale is not adequately explained." 582 F.2d at 698. But the rationale needs no explanation, first because the statutory language is clear, and second because it is axiomatic that an essential characteristic of a supervisor is personal, individual accountability to his immediate supervisor for performance of his supervisory duties. Thus, a dean or other administrative officer is subject to removal if he makes decisions which are regarded by his superior in the management hierarchy as mistaken.

By contrast, faculty members who make recommendations on faculty status and academic standards are not accountable to management. A professor's eligibility to participate in governance does not depend upon management's evaluation of the quality of his judgments (if indeed it even knows

what they are since they are merged in the collective opinion). Similarly a professor's status and progress as a faculty member are not affected by management's evaluation of his performance in the governance system. If he is accountable at all, it is to his professional peer group.

The Court below asserted that its doubt about the soundness of the Board's interpretation of Section 2(11) need not be reached because there is no such restriction in the concept of "managerial employees." 582 F.2d at 699. It held that policies created by a group as well as those developed by an individual are covered by the test of *Bell Aerospace*, which excludes from the Act employees "who formulate and effectuate management policies by expressing and making operative the decisions of the employer." 416 U.S. at 288.

In reaching this conclusion the Court erred. It eschewed an examination of the duties, job relationships, and relationship to management of individual faculty members; it looked, instead, to the role of the faculty as a collectivity and found that *all* faculty should be denied the rights of the NLRA.

This holding is contrary to the principle of *Bell Aerospace, supra*, which requires an analysis of individual, not group, activity. In *Bell Aerospace* the issue was whether the buyers for the company were managerial employees. This Court held that the decision as to whether particular employees are managerial is for the Board to make after examining "particular . . . employees' actual job responsibilities, authority and relationship to management." 416 U.S. at 290, n. 19. On remand the Board examined the duties of the buyers, the discretion they exercised in making purchases, the benefits they received and their relationship to their supervisors, *Bell Aerospace and International Union U.A.A.A.I.W.A.*, 219 N.L.R.B. 384, 386 (1975). Finding that each member of the group had the same attributes, the Board held that none of them was managerial. Subsequent decisions have turned on an analysis of the functions of individual employees. *NLRB* v. *Wentworth Insti-*

tute, 515 F.2d 550, 557 (1st Cir. 1975); *NLRB* v. *Mercy College,* 536 F.2d 544 (2d Cir. 1976).

To exclude all full-time faculty members as managerial solely because of their membership in a group, without any findings as to individual attributes, is contrary to this settled principle. Moreover, it seems anomalous to deny the rights of the NLRB to 1200 faculty members on the basis of class attributes when Section 2(3), 29 U.S.C. § 152(3) (1976), of the Act contemplates only the exclusion of *individuals* employed in specified categories.

C. Faculty participants in governance do not function "in the interest of the employer" nor do they formulate, determine, and effectuate "employer policies"; thus, they are neither supervisors under Section 2(11) of the NLRA nor managerial personnel under *Bell Aerospace.*

A governance system is designed to operate as an instrument of reconciliation. Faculty members who make recommendations regarding faculty status and academic standards are motivated by the interests of the profession, interests which are independent of those of management. The judgments which they reach reflect the concerns of the faculty in regard to who is admitted to the profession, who meets the standards of good practice, what is taught, how to measure student performance, etc. These concerns are set against the responsibilities of management to answer to consumer-users and/or funders of the college or university for institutional performance. Conflicts on these matters between the faculty and management may arise from many sources, such as disparate views over fiscal allocations between experienced and inexperienced teachers, over programmatic priorities (*e.g.*, research versus teaching), or over the response to external interest groups. The fact that the governance system may succeed in avoiding some of these potential conflicts (as it presumably does at Yeshiva University) does not mean that the faculty is motivated by the same interests as management.

The Court below asserted that these conclusory statements are negated by the record which establishes that Yeshiva University management "so rarely interfered in the faculty decisions . . . that the interests of the faculty and of the University were almost always co-extensive" 582 F.2d at 700. What the Court overlooked is that this was management's choice. If the faculty asserts a judgment on a matter looking to its interest as a professional group and management accepts that judgment, it does not follow that the faculty has lost its independence or compromised its opinion out of concern for management.

Since faculty members are accountable only to themselves and to their colleagues for their governance judgments, the danger of divided loyalty underlying the exclusion of managerial and supervisory employees from the Act is not brought into play by permitting faculty to exercise the right to bargain collectively.

It is true, as the Court of Appeals said, that most university faculties enjoy a state of independence and influence on institutional policy which is "entirely unknown among the professionals in private industry." 582 F.2d at 698. But independence is a part of the exercise of discretionary judgment by professional employees under Section 2(12) of the NLRA, 29 U.S.C. § 152 (12) (1976), and *influence* on policy is not to be equated with authority to formulate, determine, or implement it.

II. AFFIRMANCE OF THE COURT OF APPEALS DECISION WILL HAVE SERIOUS ADVERSE PRACTICAL CONSEQUENCES IN THE PUBLIC AS WELL AS THE PRIVATE SECTOR AND IN ELEMENTARY AND SECONDARY EDUCATION AS WELL AS HIGHER EDUCATION.

State courts and administrative agencies are profoundly influenced in their interpretations of state public employment bargaining statutes by decisions involving the NLRA. See, for example, *Detroit Police Officers Union* v. *City of Detroit,* 391 Mich. 44, 214 N.W.2d 803 (1974) ("[I]t is

probably safe to assume that the Michigan Legislature intentionally adopted § 15 [of the public sector bargaining laws] in the form that it did with the expectation that MERC and the Michigan courts would rely on the legal precedents developed under the NLRA . . .''). H. Edwards, "The Emerging Duty to Bargain in the Public Sector," 71 *Mich.L.Rev.* 885, 895 (1973). See also, *Aberdeen Education Association* v. *Aberdeen Board of Education*, 88 S.D. 127, 215 N.W.2d 837 (1974); *National Education Association of Shawnee Mission* v. *Board of Education*, 212 Kan. 741, 512 P.2d 426 (1973); *Pa. Labor Rel. Bd.* v. *State College Area School Dist.*, 461 Pa. 494, 337 A.2d 262 (1975).

Accordingly, if the decision below stands, it will have an impact, not only on the private colleges and universities to which the NLRA applies, but also on public colleges and universities whose labor relations are governed by state public employment bargaining statutes. Collective bargaining for faculty will be threatened in all 633 colleges and universities where it now exists if there is a procedure pursuant to which management receives, weighs, and takes into account faculty opinions with respect to academic status and standards.[3] The degree of the threat will depend upon management's unilateral decision with respect to the placement of the procedure on the continuum of faculty influence in decision-making. Thus, a college or university management may choose to move from the administrative primacy zone to the faculty primacy zone with respect to enough issues to make the doctrine enunciated by the Court below operative and justify a refusal to bargain.

Furthermore, the managements of universities and colleges that do not have faculty collective bargaining (about 2500 potential bargaining units) will have the option of preventing its establishment by creating governance pro-

[3] This total includes bargaining units represented by NEA, the American Association of University Professors, and the American Federation of Teachers.

cedures and following faculty advice with respect to enough issues with sufficient frequency to bring the principle of the decision below into play.

In sum, college and university managements will have the power, not only to devitalize ongoing relationships, but also to prevent faculty members from claiming and exercising rights under the labor relations laws.

Affirmance of the decision below will also have an adverse impact on elementary and secondary school systems where faculty influence on management decision-making, while not as wide-spread as in higher education, is not unusual. See McDonnell and Pascal, *Organized Teachers in American Schools*, Rand Corp. (1979). See also Wollett, "The Coming Revolution in Public School Management," 67 *Mich.L.Rev.* 1017 (1969).

For example, the collective bargaining agreement between the Broward County Classroom Teachers Association, Inc. and the School Board of Broward County (Florida), a large school system, provides for teacher nomination of department chairpersons, for chairpersons to make recommendations to the administration concerning curriculum, course objectives, student performance criteria for student progression, evaluation procedures, and standards for course evaluation in terms of quality, effectiveness, and efficiency, and for teacher involvement in evaluating in-service training needs, developing teacher training programs, and facilitating techniques for evaluating teacher competence.

The collective bargaining agreement between the Columbus Education Association and the Columbus Board of Education (Ohio), a middle-size school district, provides for the election of department chairpersons by the faculty, and the participation by teachers through an elaborate structure of committees and councils in decision-making with respect to the policies and programs of each elementary and secondary school, staff development, standards for instructional materials, curriculum, modular scheduling, course offerings and

team teaching, textbook selection, and educational programing.

Typical of small school districts are contract provisions which call for faculty input in the evaluation of teacher performance. See, *e.g.*, Kodiak Island Borough School District and Kodiak Borough Education Association.[4]

Finally, the task of the NLRB in administering the federal labor act will become inordinately complex if the decision of the Court below is affirmed. Whether the Board will validate a collective bargaining relationship by directing an employer to bargain will depend upon two variables: (1) The subjects which management submits to the judgment of the faculty; (2) the frequency with which management accepts faculty advice on those subjects. Furthermore, the facts at a given college or university may change from year to year or even from month to month depending upon the style of management which is currently in vogue. The rights under a statute, particularly one infused with public concern, should not depend upon such temporal permutations.

[4] The full texts of these agreements are available from the Research Studies Unit, National Education Association, 1201 16th St., N.W., Washington, D.C. 20036.

CONCLUSION

On the basis of the foregoing analysis, we respectfully urge this Court to find that on the facts of this case the full-time faculty of Yeshiva University are neither supervisors nor managerial personnel and are entitled to enjoy the rights of the National Labor Relations Act. Accordingly, we urge that the decision of the Court of Appeals be reversed.

May 4, 1979.

Respectfully submited,

DONALD H. WOLLETT
3200 5th Avenue
Sacramento, CA 95817

ROBERT H. CHANIN
1201 16th St., N.W.
Washington, DC 20036

Attorneys for
Amicus Curiae.

Supreme Court, U. S.
FILED
JUL 17 1979
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioners,

v.

YESHIVA UNIVERSITY

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF OF THE JOHNS HOPKINS UNIVERSITY, NEW YORK UNIVERSITY, NORTHEASTERN UNIVERSITY AND THE GEORGE WASHINGTON UNIVERSITY, *AMICI CURIAE*

WINER, NEUBURGER & SIVE
Counsel to Amici Curiae
425 Park Avenue
New York, New York 10022

DANIEL RIESEL
DAVID SIVE
MARK A. CHERTOK
Of Counsel

ESTELLE A. FISHBEIN
Attorney for The Johns Hopkins University

RICHARD SEMERARO
Attorney for New York University

JEROME MEDALIE
WIDETT, WIDETT, SLATER & GOLDMAN, P.C.
Attorneys for Northeastern University

FRED VINSON
REASONER, DAVIS & VINSON
Attorneys for The George Washington University

TABLE OF CONTENTS

PAGE

INTEREST OF AMICI 2

QUESTION PRESENTED 4

STATEMENT OF THE CASE 4

(a) The Status of Faculty Collective Bargaining 5

(b) Faculty Governance at Mature Universities 5

(c) The Harm Resulting From the Board's Proposed Application of the Act 8

SUMMARY OF ARGUMENT 16

ARGUMENT—The Second Circuit Did Not Err In Denying Enforcement Of The Board's Order Which Was Premised On The Board's Four New Doctrines For University Faculty Cases 18

(a) Administrative Findings of Supervisory Managerial Authority 18

(b) Administrative Background of Board Doctrines 21

(c) The Board's Doctrines At Issue 26

(1) The Board's doctrine that faculty authority is not exercised in the interest of the employer is invalid as a matter of fact and law 26

(2) The Board's doctrine that the Act gives the Board the right to include professional employees with managerial and supervisory authority is erroneous as a matter of law 30

PAGE

(3) The Board's doctrine that faculty authority can be dismissed because it is theoretically subject to the ultimate authority of the University's Board of Trustees is contrary to the express provisions of the Act and factually invalid 33

(4) The Board's previous doctrine that faculty authority can be dismissed because it is generally exercised on a collective basis is contrary to Board and Court decisions 34

CONCLUSION 35

Cases Cited

Adelphi University, 195 NLRB 639 (1972) 9, 19-24

Albany Medical College, 239 NLRB 106, 100 LRRM 1279 26

American Broadcasting Cos. v. Writers Guild, 437 U.S. 411 (1978) 25

Beth Israel Hospital v. NLRB, 437 U.S. 483 (1978) 25

Carpenter Steel Co., 76 NLRB 670 (1948) 11

C. W. Post Center of Long Island University, 189 NLRB 904 (1971) 19, 20-23

Eastern Greyhound Lines v. NLRB, 337 F.2d 84 (6th Cir. 1964) 33

Fairleigh Dickinson University, 205 NLRB 673 (1973) 13

Fairleigh Dickinson University, 227 NLRB 239 (1976) 13

Florida Southern College, 196 NLRB 888 (1972) 34

PAGE

Ford Motor Co. v. NLRB, No. 77-1806 (May 14, 1979) 25

Fordham University, 193 NLRB 134 (1971) 21, 22

General Dynamics Corp., 213 NLRB 851, 87 LRRM 1705 (1974) 31

Hamburger v. Cornell University, 240 NY 328 (1925) 30

Inland Steel v. NLRB, 170 F.2d 247 (7th Cir. 1948) 14

J.I. Case Co. v. NLRB, 321 U.S. 332 (1944) 14

Marine Engineers Beneficial Ass'n v. Interlake Steamship Co., 370 U.S. 173 (1962) 25

Michalik, d/b/a Service Metal Industries, 96 NLRB 10, 28 LRRM 1477 (1951) 14

National Labor Relations Board v. Yeshiva University, 582 F.2d 686 (2d Cir. 1978), cert. granted, —— U.S. ——, 99 S. Ct. 1212 (1979) 4, 5, 16, 20, 21, 26, 27, 29, 32-34

NLRB v. Bell Aerospace Co., Div. of Textron, Inc., 416 U.S. 267 (1974) 16-19, 27, 28, 32, 34

NLRB v. Cabot Carbon Corp., 360 U.S. 203 (1959) 10

NLRB v. Gary Aircraft Corp., 368 F.2d 233 (5th Cir. 1966) 33

NLRB v. Metropolitan Life Ins. Co., 405 F.2d 1169 (2d Cir. 1968) 19, 33

NLRB v. Southern Airways Co., 290 F.2d 519 (5th Cir. 1961) 33

NLRB v. Wentworth Institute, 515 F.2d 550 (1st Cir. 1975) 5

Northeastern University, 218 NLRB 247 (1975) 9, 21

PAGE

New York University, 205 NLRB 4 (1973) 19

Ohio Power Co. v. NLRB, 176 F.2d 385 (6th Cir.), cert. denied, 338 U.S. 899 (1949) 19

Presbyterian Medical Center, 218 NLRB 1266, 89 LRRM 1752 (1975) 31

Shamrock Dairy, 119 NLRB 998, 41 LRRM 1216 (1957) 14

Typoservice Corp., 203 NLRB 1180 (1973) 14

University of Chicago, 205 NLRB 220, 83 LRRM 1678, enforced 506 F.2d 1402 (7th Cir. 1974) 31

University of Miami, 213 NLRB 634 (1974) 21, 22

Western Saw Manufacturers Inc., 155 NLRB 1323 (1965) 34

Yeshiva University, 221 NLRB 1054 (1974) 4, 18, 21, 22, 29, 30

Statutes Cited

L. 1831, Ch. 176 2

National Labor Relations Act:

Sec. 2(11) 33

Sec. 2(12) 17, 30, 31

Sec. 8(a)(2) 10, 11

Sec. 8(a)(3) 14

Sec. 10(e) 4

Sec. 152(11) 18, 33

Sec. 152(12) 30

PAGE

29 U.S.C.:

Sec. 151 ..... 4, 14

Sec. 160(e) 4

Other Authorities Cited

Advice Memorandum dated March 18, 1977 by Harold J. Datz, Associate General Counsel, Division of Advice, NLRB, in Endicott College, Case No. 1-CA-12171 20

Finken, Collective Bargaining and University Government, 57 A.A.U.P. Bull. (1971):

149, 151 2

Kadish, The Theory of the Profession and its Predicament, 58 A.A.U.P. Bull. (1972):

120, 122 15

Kahn, The NLRB and Higher Education: The Failure of Policymaking Through Adjudication, 21 U.C.L.A. L.Rev. (1973):

63, 95 .....23, 25, 32

Reisman, Davis (Ed.), Academic Transformations (McGraw-Hill 1973):

425 8

Statement on Government of Colleges and Universities, 52 A.A.U.P. Bull. (1966):

375 29

PAGE

The Chronicle of Higher Education (June 25, 1979):
13-14 5

D.H. Wollet, "Self-Governance and Collective Bargaining: Can They Co-Exist?" (Paper delivered at National Center for the Study of Collective Bargaining in Higher Education, Baruch College, New York, April 12, 1973) 8

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-857

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

YESHIVA UNIVERSITY

Respondent.

No. 78-997

YESHIVA UNIVERSITY FACULTY ASSOCIATION,

Petitioner,

v.

YESHIVA UNIVERSITY

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF OF THE JOHNS HOPKINS UNIVERSITY, NEW YORK UNIVERSITY, NORTHEASTERN UNIVERSITY, AND THE GEORGE WASHINGTON UNIVERSITY, *AMICI CURIAE*

Interest of *Amici*

The *Amici*, The Johns Hopkins University, New York University, Northeastern University, and The George Washington University, are research-oriented, private institutions of higher education, each with a long-established and pervasive collegial decision-making process that properly places it in the rather limited category often referred to as "mature" universities.[1]

The John Hopkins University was incorporated in 1876 under the laws of the State of Maryland. It was the first academic institution in the United States to have as its primary goal the pursuit of graduate education. It maintains offices and educational facilities in Baltimore, Maryland and elsewhere.

New York University was incorporated by Act of the Legislature of the State of New York, Chapter 176 of the Laws of 1831, as thereafter amended. It maintains offices and educational facilities at locations in New York City and elsewhere.

Northeastern University traces its origins back to 1898 with the founding of the Evening Law School of the Boston Young Men's Christian Association. It has been known as Northeastern University since 1936. It maintains offices and educational facilities in Boston, Massachusetts and elsewhere.

[1] As the former Associate General Counsel of the American Association of University Professors noted, there is a wide spectrum among institutions of higher education in terms of faculty authority:

> "At the other end of the governance spectrum there are a number of institutions in which the faculty plays a significant, if not a determinative, role in the development of institutional policy. These commonly are regarded as the academically better institutions. More likely than not the majority of institutions fall somewhere along the spectrum represented by the powerless faculty of the autocratic or bureaucratic institution and the powerful faculty of the mature university and college." M. Finken, *Collective Bargaining and University Government*, 57 A.A.U.P. Bull. 149, 151 (1971) (footnotes omitted).

The George Washington University was chartered by Act of Congress in 1821. Its offices and educational facilities are located in Washington, D. C. and elsewhere.

While each campus has its own unique history and traditions, they share a common recognition of the integral role of faculty in their academic decision-making processes. Such faculty authority is evident in all aspects of their academic communities ranging from determination of academic matters (curriculum, admissions requirements, etc.) to effective decision-making in regard to what the National Labor Relations Board (hereinafter "NLRB" or the "Board") refers to in its industrial jargon as "working conditions". These consist, to a substantial degree, of perquisites unheard of in an industrial context and unique to faculty at such universities, such as collegially-governed academic tenure and promotions.

The decision-making process at such universities is carried out by various faculty governance bodies such as senates, faculty councils and various faculty committees. Implicit in the Court of Appeals' decision is recognition of the crucial importance of such faculty governance bodies for the continued vitality of mature universities where academic excellence can survive and grow. *Amici* contend that the Board's misapplication of industrial concepts to such universities would result in the effective destruction of their governance bodies and would be of substantial detriment to other important aspects of academic life. *See* pages 8-16 *infra*.

Question Presented

Was the Court of Appeals for the Second Circuit correct in holding that there was no valid basis in the National Labor Relations Act, 29 U.S.C. §151 *et seq.*, for the Board's newly formulated legal doctrine for university faculty, upon which the Board predicated its denial of the Act's exclusions for faculty at a mature university with factually undisputed managerial and supervisory authority?

Statement of the Case

This case is before the Court on a writ of certiorari to the Court of Appeals for the Second Circuit which denied the NLRB's petition for enforcement of its order brought pursuant to Section 10(e) of the National Labor Relations Act (hereinafter the "NLRA" or the "Act"), 29 U.S.C. §160(e).[2] The order, dated August 24, 1977, in effect directed Yeshiva University (hereinafter "Y.U.") to engage in collective bargaining with its faculty. That order was based on a decision of the Board in a representation proceeding instituted by the Yeshiva University Faculty Association (hereinafter "YUFA") which decision contained the substantive findings of the Board at issue herein.[3]

[2] *NLRB* v. *Yeshiva University*, 582 F.2d 686 (2d Cir. 1978), *cert. granted*, —— U.S. ——, 99 S. Ct. 1212 (1979).

[3] *Yeshiva University*, 221 NLRB 1053 (1975).

(a) The Status of Faculty Collective Bargaining.

Amici are not aware of any "mature" private university that has a collective bargaining relationship with its faculty. Indeed, the vast majority of currently represented faculty are at two year colleges and public institutions.[4] Moreover, the court below indicated that only in those institutions where "faculty play a decisive role in the development of institutional policy" would the exclusion applicable to Y.U. faculty be theoretically applicable. Even within this very limited category, however, the court indicated a case by case consideration would be required. *See* 582 F.2d at 696. Indeed, only one other institution of higher education has argued before any Court of Appeals the managerial or supervisory status of its faculty and its claim was rejected. *NLRB* v. *Wentworth Institute*, 515 F. 2d 550, 556 (1st Cir. 1975). Accordingly, any suggestion that an affirmation of the Court of Appeals' decision in the instant case would widely disrupt on-going collective bargaining relationships is specious.

(b) Faculty Governance at Mature Universities.

At "mature" private institutions of higher education where collegial decision-making has long been the rule, such as the *amici* herein, there already exist on-going governance mechanisms in which faculty have a vital role. At certain institutions, separate governance mechanisms exist within the institution's individual schools while at others an inter-school governance mechanism, generally referred to as a senate, dominates. In addition, governance is also carried out through such mechanisms as faculty councils and faculty committees, such as Faculty Grievance Committees.

[4] The Chronicle of Higher Education 13-14 (June 25, 1979).

A brief description of such faculty governance mechanisms at the campuses of *amici* herein is illuminating. At The Johns Hopkins University, each school has its own governance body. For example, at the School of Arts and Sciences, there exists both an Academic Council and a General Assembly. According to the University's published rules, the Academic Council determines such matters as appointments and promotions of faculty, reviewing the recommendations of the department chairpersons and the Dean in these regards (Section 8 of Procedures of Academic Council). The General Assembly of the school is authorized by the By-laws "to provide a forum for the faculty to discuss and make recommendations concerning matters pertaining to the purposes and functioning of the University" (Article I, Section 2).

At New York University, according to the By-laws, the Senate is empowered to act upon "educational matters and regulations of the academic community that affect more than one school." As provided in greater detail in the University Faculty Handbook, the Senate "is the deliberative body of the University for academic policies, structure, and procedures, including proposals for changes; it is concerned with the academic program and structure, personnel and budgetary policies, development of facilities, and community, professional, and educational relations of the University" (N.Y.U. Faculty Handbook, 19).

At Northeastern University the functions of the Faculty Senate are defined as follows:

1. To act as a coordinating body to establish mutually satisfactory academic goals and standards among the various Colleges and Divisions.
2. To be consulted either as a whole body or in appropriate committee on all policies, proposals and problems of faculty concern, including such matters as

the creation of new colleges, new campuses, and new departments.

3. To initiate consideration and recommendation on any matter of faculty concern.
4. To undertake such legislative and advisory functions in connection with the work of the University as may be referred to it by the President and the Board of Trustees.
5. To provide communication between the Administration and University Faculty.

Northeastern University By-Laws 13-14.

At The George Washington University, one aspect of the Senate's authority is stated as follows in the University's Faculty Organization Plan:

> The University Senate [now known as the Faculty Senate] on behalf of the University faculty shall, with respect to matters which are of concern to more than one college, school or division or to University faculty generally:
>
> (1) Formulate policy and make such other determinations and exercise supervision with respect to such programs or other matters as the Dean or the Board of Trustees may designate.
>
> . . . .

The George Washington University, Faculty Organization Plan, Art. 3, Section 1.

While the scope of authority of such governance bodies is rather broadly stated in published documents, it should be noted that substantial additional authority exists in practice.

(c) The Harm Resulting From the Board's Proposed Application of the Act.

In a study of the effect of collective bargaining on governance bodies at unionized public and private institutions of higher education, it was found "that a union tends eventually to weaken the power of a Faculty Senate . . . ."[5] Indeed, scholars in the field have indicated that when a university community has been subject to collective bargaining for longer periods of time, Senates are not merely weakened but effectively destroyed. As one noted, [f]aculties cannot expect self-governance through academic Senates or similar vehicles to survive—at least as institutions of significance—if they opt for collective bargaining."[6]

The weakening, or effective elimination, of faculty governance bodies, as a result of the Board's current policy in regard to institutions where faculty play a crucial role in academic descision-making, has already been recognized by the Board. Thus, the Board has observed:

> The delegation by the University to such elected groups of a combination of functions, some of which are, in the typical industrial situation, normally more clearly separated as managerial on the one hand and as representative of employees interests on the other, *could raise questions both as to the validity and continued viability of such structures under our Act,* particularly if an exclusive bargaining agent is designated.[7]

[5] D. Reisman, Ed., Academic Transformations 425 (1973).

[6] D. H. Wollett (Professor of Law at the University of California at Davis), *Self-Governance and Collective Bargaining: Can They Co-Exist?* (paper delivered at National Center for the Study of Collective Bargaining in Higher Education, Baruch College, New York, April 12, 1973).

In one Board representation proceeding involving university faculty, the majority opinion took note that a communication had been received by the Board from faculty requesting clarification of the Board's position and quoted from such faculty communication as follows:

> "[W]e are in the dark as to the impact of an affirmative vote upon our collegial system with its shared governance arrangements." The letter further stated that "we believe that the Board will do a grave disservice to faculty members at our institution if it orders an election without providing the needed clarification. For examples, we must know the likely effect on the role of our committees on promotion, on our Faculty Senate and on other matters intimately involved with relationships of faculty to the University and to each other."[8]

Despite the recognized "concern of faculty members," two of the three members of the Board's panel simply ignored the issues, indicating that it was not its rule "to give advisory opinions."[9] The third member, however, was less reserved and noted:

> It has been long established that since an employer's obligation to bargain with a selected representative is "exclusive," it carries with it "the negative duty to treat with no other" . . .

[7] *Adelphi University,* 195 NLRB 639, 648 n.31 (1972) (emphasis added).

[8] *Northeastern University,* 218 NLRB 247, 249 (1975) (footnote omitted).

[9] *Id.*

> In my judgment this Board is statutorily required to apply the exclusive representative principle to those colleges and universities over which it asserts jurisdiction. Undoubtedly, this will affect the ability of faculty members to utilize existing governance structures in dealing with the administration over "rates of pay, wages, hours of employment, or other conditions of employment."[10]

In addition to the extant and potential harm to faculty governance bodies by virtue of the principle of exclusivity, such governance bodies would be subject to dissolution under the Board's present doctrines for application of the Act in the event that a § 8(a)(2) unfair labor practice charge was filed by any individual, whether or not an employee. Such a charge would lie against any group, however styled or constituted, "dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."[11]

Clearly a faculty senate which deals with many "conditions of work" for faculty would be subject to such a charge. Inasmuch as faculty senates invariably receive from the university material aid (such as use of the university's mails, provision of meeting space, etc.), they would undoubtedly be found in violation of § 8(a)(2) which considers the provision of material aid as illegal "assistance". Moreover, inasmuch as senates invariably invite or include deans and other university "officials", they would also likely be found illegally "dominated" under § 8(a)(2) as well. In that event, senates or other

[10] *Id.* at 256 (Member Kennedy, concurring in part and dissenting in part) (footnotes omitted).

[11] § 8(a)(2), 29 U.S.C. § 158(a)(2). The term "dealing with" is broadly defined. *NLRB* v. *Cabot Carbon Corp.*, 360 U.S. 203 (1959).

governance bodies would have to be dissolved as a matter of law.[12] It should be noted that this result could occur even in the absence of a collective bargaining representative so long as the faculty involved are deemed by the Board to be employees subject to the Act but could not occur in the event faculty are considered managerial or supervisory personnel.[13]

The potential dissolution of existing governance bodies, or even serious curtailment of their existing range and degree of authority, would have most unfortunate consequences for "mature" university communities. Indeed, the collegial decision-making process carried out largely through such governance bodies is an essential ingredient in a university's striving for academic excellence. Moreover, the extraordinary degree of faculty participation in governance at "mature" universities has served to nourish and enhance academic freedom by assuring that the rights of faculty members are well understood and protected at the university.

Clearly, anything comparable to the present degree of faculty participation in governance—and the benefits it brings—could not exist if the present collegial framework for decision-making at mature universities were replaced by an adversarial collective bargaining setting. Nor could such faculty participation continue to flourish if the governance-bodies through which it is exercised are curtailed. What must not be overlookd is that the losses that will result if the Board's misconceived doctrines are allowed to prevail would have a profoundly harmful effect on some of the nation's oldest and most important scholarly communities.

[12] *Carpenter Steel Co.*, 76 NLRB 670 (1948).

[13] Groups composed of managerial or supervisory personnel are not subject to § 8(a)(2) charges.

A related danger results from the fact that it is commonplace at "mature" collegially-oriented private universities for faculty members to sit on committees that play a significant role in the search for university officers, such as presidents and deans, as well as department chairmen. As the American Association of University Professors noted, the prevailing concept of university governance fully "expect[s] that faculty members will have a significant role in the selection of academic administrators, including the president, academic deans, department heads, and chairmen."[14] Such a system can only exist in a collegial, rather than a collective bargaining, atmosphere since no institution forceably and unnaturally divided into "labor" and "management" can suffer the selection of "management" by members of "labor". If the Board's new doctrines are imposed on outstanding private universities, the integral role played by faculty in choosing the leadership of these educational institutions and of directing and guiding the functions of such institutions will be destroyed by an adversarial structure neither intended for, nor suitable for, such campuses.

An example of the adverse effect on academic communities resulting from the NLRB's misconceived and misapplied doctrines was provided at the campus of a university that recognized a faculty union. Previous to the introduction of faculty unionization at Fairleigh Dickinson University, department chairmen, as the Board itself recognized, had the power and authority of statutory "supervisors". Indeed, the Board noted that among other powers "the record [prior to certification of the bargaining unit] clearly

[14] "Faculty Participation in the Selection and Retention of Administrators" (Statement prepared by the AAUP's Committee on College and University Government and adopted by the Council of the American Association of University Professors in November, 1974) (footnote omitted).

shows that department chairmen have substantial responsibility for the hiring of new faculty members and the retention of faculty members who have not yet attained tenure."[15] Such a system, however, could hardly withstand the effect of the NLRB's imposition of an adversarial structure and the Board recently reconsidered the Fairleigh Dickinson University situation, noting in the process: "We . . . find that the collective bargaining agreement between the parties has so changed the authority and responsibilities of the department chairpersons that they are no longer supervisors under the Act."[16]

The disruptive effect of such misconceived and misapplied doctrines can also fully destroy the "tenure" system which is central to both academic freedom and the integrity of the relationship between academes and leading institutions of higher learning. Thus, it is a basic labor law principle that all existing "contracts" affecting what the Board defines as "terms and conditions of employment" are subject to complete revision or revocation upon collective bargaining certification:

> Individual contracts, no matter what the circumstances that justify their execution or what their terms, may not be availed of . . . to limit or condition the terms of the collective agreement. . . .
>
> The purpose of providing by statute for the collective agreement is to supersede the terms of separate agreement of employees with terms which reflect the strength and bargaining power and serve the welfare of the group. . . .

[15] *Fairleigh Dickinson University*, 205 NLRB 673, 675 (1973).

[16] *Fairleigh Dickinson University*, 227 NLRB 239, 241 (1976).

> But it is urged that some employees may lose by the collective bargaining agreement, that an individual workman may sometimes have, or be capable of getting, better terms than those obtainable by the group and that his freedom of contract must be respected on that account. We find the mere possibility that such agreements might be made no ground for holding generally that individual contracts may survive or surmount collective ones.[17]

There can be little question that the subject matter of job security, which is inextricably involved in tenure contracts, falls within the purview of "terms and conditions of . . . employment."[18]

As such, faculty tenure arrangements would be totally subject to the jeopardy of the bargaining process. Indeed, at one organized educational institution (The University of Bridgeport), the union has already demanded that tenured faculty who have not paid union dues pursuant to the union's agency shop requirement be terminated.[19]

---

[17] *J.I. Case Co.* v. *NLRB*, 321 U.S. 332, 337-38 (1944) (footnotes omitted); *see also Typoservice Corp.*, 203 NLRB 1180, 1190 (1973).

[18] Section 1 of the Act, 29 U.S.C. § 151. Subjects of bargaining include termination, *Inland Steel* v. *NLRB*, 170 F.2d 247 (7th Cir. 1948); changes in employee status, *Shamrock Dairy*, 119 NLRB 998, 41 LRRM 1216 (1957); and layoffs, *Michalik, d/b/a Service Metal Industries*, 96 NLRB 10, 28 LRRM 1477 (1951).

[19] An "agency shop" clause, which requires payment of union dues and initiation fees as conditions of continued employment, has full legal validity under Section 8(a)(3) of the Act.

While the elimination of private employment contracts in light of collective bargaining may be understandable and necessary in other contexts, the potential elimination of tenure rights which are essential to academic freedom is neither understandable nor tolerable.

The former President of the American Association of University Professors observed that the harm to collective bargaining in such situations went to the very heart of the academic structure:

> The process of collective bargaining itself, which has been gaining increased ground in higher education, raises problems even apart from the strike. In dividing the university into worker-professors and manager-administrators and governing boards, it imperils the premise of shared authority, encourages the polarization of interests and exaggerates the adversary concerns over interests held in common. In placing the professor in the position of bargainer seeking to exact his demands from the university's managers and owners, the process of collective bargaining heavily burdens the professor's role as primary governor of the educational enterprise. Moreover, the process itself as it functions tends to remit issues which faculty should themselves determine to outside agencies such as state and federal boards, arbitrators, and union bureaucracies. In addition, since unions rest on continued support of their constituency, the process becomes susceptible to essentially political rather than essentially academic decision-making.[20]

---

[20] Kadish, *The Theory of the Profession and its Predicament*, 58 A.A.U.P. BULL. 120, 122 (1972).

In short, what is at issue in this proceeding is the continued viability of collegial decision-making that is essential to the maintenance of academic excellence in this nation's "mature" university communities, which are limited in number, but not in importance, to our country's academic, social and professional goals.

Summary of Argument

The Board has recognized that faculty of certain universities have substantial managerial and supervisory authority, yet the Board has arrived at four legal doctrines with regard to faculty that are the basis of the administrative determination that such faculty do not fall within the Act's managerial and supervisory exclusions.

1. The primary doctrine now advanced by the Board is that the faculty's managerial and supervisory authority is not exercised in the interest of the University as employer. Yet the Board's doctrine is essentially premised on the fact that faculty at certain universities have such vast authority that they establish the very policies which they then "effectuate". This doctrine is also a reiteration by the Board of its position rejected by the Court in *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc.,* 416 U.S. 267 (1974), to the effect that the managerial exclusion of the Act should be limited to those "closely aligned" with management.

Aside from its conflict with the statute and the case law, this doctrine is factually invalid at universities such as Y. U. where the interest of the faculty and the university are not divergent but "almost always coextensive." *NLRB* v. *Yeshiva University, supra* at 700.

2. The petitioner NLRB's brief also stresses the Board's doctrine that where professional employees are involved, the Board has a statutory option to grant or deny exclu-

sion, even when the professionals "are vested with significant managerial or supervisory responsibility." Brief for Petitoner NLRB at 31. The Act's exclusions are mandatory, however, and not left to administrative discretion. Moreover, the Board's criteria for applying its assumed option—suggesting its use only where the faculty's authority would result in "divided loyalty"—is yet another restatement of the "conflict of interest" limitation of the Act's exclusions rejected by the Court in *NLRB* v. *Bell Aerospace, supra.*

3. The Board doctrine that faculty authority can be dismissed because it is theoretically subject to the ultimate authority of the university's Board of Trustees is at odds with the express provisions of §2(12) of the Act which contemplates exclusions for those whose authority is to "effectively recommend" subject to the higher authority of others. The doctrine is also factually inappropriate to "mature" universities such as Y. U., where the Board of Trustees has regularly endorsed faculty recommendations.

4. The doctrine principally relied on in the Board's representational decisions—that faculty authority can be denied because it is generally exercised on a collective basis —has now been virtually abandoned by the Board and Y.U.F.A. and disavowed by *Amici,* undoubtedly in large measure, because the doctrine was in conflict with previous administrative and judicial decisions.

ARGUMENT

The Second Circuit Did Not Err In Denying Enforcement of the Board's Order Which Was Premised On The Board's Four New Doctrines For University Faculty Cases.

(a) Administrative Findings of Supervisory Managerial Authority.

The Board's decision in *Yeshiva University* made clear that the Board recognized that faculty at certain institutions had effective "authority" with respect to numerous "working conditions" of faculty, matters of university governance and the academic "product" of the institution. This authority would normally mandate that such faculty come within the statutory definition of "supervisory" personnel[21] as well as the even broader exclusion from the Act for "managerial" personnel.[22]

Thus, as summarized in the *Yeshiva University* decision, the Board recognized the authority of such faculty "with respect to hiring, promotion, salary increases, the granting of tenure and other areas of governance."[23]

---

[21] "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment." Section 2(11) of the Act, 29 U.S.C. § 152(11).

[22] *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc., supra* at 277.

[23] *Yeshiva University, supra* at 1054.

Still other aspects of faculty authority were noted in previous Board decisions which the Board adopted by reference in the *Yeshiva University* decision.[24] Thus, the Board has also noted: "Faculty status, including appointment, reappointment, promotion, tenure, and dismissal, are also matters as to which the full-time faculty exercised power and responsibility."[25]

These administrative findings of faculty authority with respect to various "working conditions" would normally mandate a conclusion that faculty are supervisors within the meaning of the Act. The law is clear that actual or effective recommendatory authority with respect to any one or more "condition[s] of employment" mandates such status. *NLRB* v. *Metropolitan Life Insurance Co.*, 405 F. 2d 1169, 1177 (2d Cir. 1968); *Ohio Power Co.* v. *NLRB*, 176 F.2d 385, 387 (6th Cir.), *cert. denied*, 338 U.S. 899 (1949). Indeed, the Board has specifically referred to faculty authority at certain institutions as being "supervisory" in nature.[26]

The Board has also conceded that faculty at certain institutions have authority that would normally fall within the Act's exclusion for managerial personnel. Thus, the most basic requirement for the managerial exclusion is authority to "formulate, determine and effectuate management policies."[27] The Board's decision in *Yeshiva University* noted, albeit in typically cryptic form, that Y.U.'s

---

[24] *Id.*

[25] *C. W. Post Center of Long Island University*, 189 NLRB 904, 905 (1971).

[26] *New York University*, 205 NLRB 4, 6 (1973); *Adelphi University*, 195 NLRB 639, 648 (1972).

[27] *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc., supra* at 276, 288.

faculty "participate in collegial decision-making"[28] which constitutes the policy-making process at the "mature" university. In fact, the Board has even referred to faculty at certain institutions as having "policy-making" authority.[29]

The Board has expressly affirmed that the authority exercised by faculty at certain institutions would, in the industrial context of the Act, require exclusion of such faculty: "In a college or professional school which has a shared or 'collegial' governance structure, certain functions which, in the context of an industrial plant are generally performed solely by management, are either shared with or entirely delegated to groups of faculty members."[30]

The Board has, in fact, acknowledged that such exclusions would be applicable to the faculty of Y.U. if the Act was applied as it had always been prior to the Board's relatively recent extension of jurisdiction to university faculty. Indeed, the court below noted that: "The Board acknowledges . . . that the activities of the full-time faculty at Yeshiva might suggest managerial or supervisory status in other contexts, but not in the case of an institution of higher learning."[31]

The Board, however, has fashioned four legal doctrines peculiar to University faculty cases to avoid the ineluc-

[28] *Yeshiva University, supra* at 1054.

[29] *C.W. Post Center, supra* at 905. *See also Adelphi University, supra* at 640 for examples of other matters as to which faculty at certatn institutions have policy-making authority.

[30] Advice Memorandum dated March 18, 1977 by Harold J. Datz, Associate General Counsel, Division of Advice, NLRB, in *Endicott College*, Case No. 1-CA-12171.

[31] *NLRB* v. *Yeshiva University, supra* at 697 n.13.

table conclusion of its administrative findings of faculty authority with respect to working conditions and formulations of policy at certain institutions. Those doctrines were rejected by the court below as not having a sound basis in the Act or a logical relationship to the facts at an institution such as Y.U. *N.L.R.B.* v. *Yeshiva University, supra* at 702-03. Accordingly, we now turn to an examination of the administrative background for the Board's doctrines.

(b) Administrative Background of Board Doctrines.

In its *Yeshiva University* decision, the Board justified its determination not to apply the Act's managerial and supervisory exclusion to Y.U.'s faculty on the following basis:

> At Yeshiva University, faculty participation in collegial decision making is on a collective rather than individual basis, it is exercised in the faculty's own interest rather than 'in the interest of the employer,' and final authority rests with the board of trustees. As in the earlier decisions, we find that the faculty members are professional employees under the Act. . . .[32]

As indicated, the Board offered no basis or rationale in its *Yeshiva University* decision for the doctrines used to limit the managerial and supervisory exclusions of the Act. Rather than analyze its doctrines, the Board relied entirely on "its earlier decision."[33] The Board now asks for defer-

[32] *Yeshiva University, supra* at 1053, 1054 (footnotes omitted).

[33] *Id.* at 1054. The Board cited the following cases (in chronological order), *C.W. Post Center*, 189 NLRB 904 (1971); *Fordham University*, 193 NLRB 134 (1971); *Adelphi University, supra; University of Miami*, 213 NLRB 634 (1974); and *Northeastern University, supra.*

ence to its administrative expertise supposedly developed in its earlier cases. A short review of these earlier cases, however, demonstrates that the Board is not entitled to such deference inasmuch as the doctrines were not based on factual conclusions but rather on unsupported legal interpolations of the Act at odds with recognized factual realities at "mature" universities.

As to the Board doctrine that faculty authority is not being exercised in the interest of the employer, the Board's decision in *Yeshiva University, supra* cites the Board's brief which states that this doctrine has been "consistently" held to by the Board in its faculty representation decisions.[34] In fact, there is no reference whatsoever to this doctrine in either *C. W. Post Center, supra* or *Fordham University, supra* or in several other earlier decisions on faculty. The doctrine actually was merely alluded to in *Adelphi University, supra* and first enunciated by the Board almost four years after *C. W. Post Center* in its *University of Miami* decision, *supra* in late 1974. Yet, in none of those decisions, nor in any other NLRB representation decision, is there any factual validation from a case record, nor was any rationale for the doctrine offered in those decisions. As the Second Circuit indicated, the Board offered no support in its decisions for this doctrine but "simply advance[d] the conclusory statement." 582 F.2d at 700.

As to the Board's doctrine that the board has the right to include faculty despite factually conceded managerial and supervisory authority because they come within the Act's definition of professional employees (§2(11), 29 U.S.C. §152(11)), neither in its *Yeshiva University* decision nor in its prior decisions on faculty did the Board offer any rationale, any reference to previous administrative decisions or any legislative support for the doctrine. Indeed,

[34] Brief for Petitioner NLRB at 21.

as the Second Circuit decision noted, such Board treatment of university faculty is contrary to that accorded by the Board to "professionals" other than university faculty but is proffered by the Board absent any clear "legal justification for a different standard for university faculty." 582 F.2d at 697 n.13).

The Board's "collective authority" doctrine was, in fact, introduced in *C. W. Post Center, supra,* but that decision failed to offer the slightest justification or rationale. As the Second Circuit concluded:

> When the Board first announced this view in *C. W. Post Center of Long Island University, supra,* at 905, it did so without benefit of analysis, and without citation to pertinent administrative decisions, judicial precedents or legislative history. In *Fordham University, supra,* the Board repeated its conclusory approach to the problem. Finally, in *Adelphi University, supra,* the Board conceded that its position arose not from precedent but from its puzzlement in attempting to apply to the unique university governance structure terms which were "designed to cope in the typical organizations of the commercial world." (*Id.* at 698 n.14).

Kenneth Kahn was even more explicit: "The Board cites absolutely no precedent for this contravention [the "collective authority" doctrine] of the explicit terms of section 2(11) and rightfully so, since there is no citable precedent."[35]

Finally, as to the Board's "ultimate authority" doctrine, this was first enunciated by the Board in its *Adelphi University* decision, with the following comment:

[35] Kahn, *The NLRB and Higher Education: The Failure of Policy-making Through Adjudication,* 21 U.C.L.A. L. Rev. 63, 95 (1973).

> In this case, as in *Post*, the ultimate authority does *not* rest with the peer group but rather with the board of trustees. Thus, although the facts indicate that much respect is paid by the trustees to the recommendations of the collegial body, it is equally clear that the trustees reserve the ultimate authority for themselves.[36]

In fact, the Board had even noted elsewhere in its *Adelphi University* decision that the Board of Trustees had always accepted the applicable recommendations of the faculty body at issue.[37] The only other Board "rationale" with regard to the "ultimate authority" doctrine came in its *New York University* decision, *supra*, where again the Board admitted it was relying on the technical corporate structure while recognizing that in reality power largely rested in the hands of the faculty in many key regards.[38] In his analysis of the ultimate authority doctrine Kahn noted:

> Thus, the *NLRB's* reliance in *Adelphi* on the collegial model for its holding that college and university faculty members are not supervisors seems to be inappropriate. The Board's conceptual model is unrealistic and its use reflects the Board's lack of expertise in the educational field. It appears that the Board is truly confounded by the concept of shared authority which is present in colleges and universities.
>
> The Board's reliance on the supremacy of the Board of Trustees in *Adelphi* for its holding that the faculty members were not supervisors can also be

[36] *Adlephi University*, *supra* at 648 (emphasis in original).

[37] *Id.* at 647.

[38] *New York University*, *supra* at 5.

> criticized on a second ground. What the Board failed to realize is that almost all private colleges and universities are non-profit corporations. As such, they must abide by their state's corporation laws which require that final institutional authority be vested in a board of trustees. Thus, the NLRB will always find that the "trustees reserve the ultimate authority for themselves" when in practice, the trustees delegate most of their authority to the faculty and administration.[39]

This is the basis in law and administrative expertise for the four Board doctrines that are at issue in regard to the status of faculty at "mature" universities.[40] Each of these doctrines will now be examined in detail.

[39] Kahn, *supra* note 35.

[40] Thus the decisions cited by the Board for the proposition that its findings are entitled to deference are inapposite. None of the cases cited, *Ford Motor Co.* v. *NLRB*, No. 77-1806 (May 14, 1979); *Beth Israel Hospital* v. *NLRB*, 437 U.S. 483 (1978); *American Broadcasting Cos.* v. *Writers Guild*, 437 U.S. 411 (1978); *Marine Engineers Beneficial Ass'n* v. *Interlake Steamship Co.*, 370 U.S. 173 (1962) (Brief for Petitioner NLRB at 44), even suggest that the Board is entitled to such deference when its role is one of essentially devising legal doctrines. This is especially so when such doctrines are those in the Board's industrial millieu where the Board's expertise is based. In this regard, the suggestion in the Board's brief that Congress, in passing the 1974 Health Care Amendments, "approved the Board's policy of asserting jurisdiction over other non-profit institutions, including educational institutions" (Brief for Petitioner NLRB at 44, 35 n.28) is misleading. In fact Congress in passing the Health Care Amendments never sanctioned the extension of the Board's jurisdiction to *faculty*, and none of the legislative passages cited by the Board in its Brief at 35 contain the slightest reference to *faculty*. Indeed, health care in-

(Footnote continued on following page)

(c) The Board's Doctrines at Issue.

(1) The Board's doctrine that faculty authority is not exercised in the interest of the employer is invalid as a matter of fact and law.

The Board's principal argument before this Court is to the effect that the factually conceded managerial and supervisory authority of the faculty at an institution such as Y.U. does not qualify for the Act's managerial and supervisory exclusions because such authority is exercised on the faculty's own behalf. This, the Board assumes, must mean such authority is not in the interest of the university as employer.[41] The court below found substantial fault with the Board's approach, particularly in the factual circumstances of an institution such as Y.U. See *NLRB* v. *Yeshiva University, supra* at 700-01.

In analyzing this doctrine, one must realize that the Board is not suggesting that faculty at an institution such as Y.U. are less dedicated to the institution's interests than industrial-type management, nor is the Board even remotely suggesting that such faculty have less authority than industrial management. Rather, the new doctrine is premised on the Board's factual finding that faculty of a "mature" institution have a substantially more significant and more pervasive role in the management of the employer's enterprise, here the University, than individuals routinely excluded as managerial employees in an industrial setting.

(Footnote continued from preceding page)

stitutions as defined by the Board exclude any teaching operation involving faculty, or any other institution whose "primary purpose, its raison d'etre—is to train . . . and to promote research . . ." *Albany Medical College,* 239 NLRB 106; 100 LRRM 1279, 1280 (1978).

[41] Brief for Petitioner NLRB at 38-40.

Thus it is precisely because the faculty are the primary determinants of the employer's policies that the Board can suggest that the faculty's authority to "effectuate" those policies should be considered as authority exercised, not in the interest of the employer, but rather only in the faculty's own interest.[42] In that same vein, the Board's syllogism for its interest of the employer argument, namely, that faculty are not "aligned in interest with management" is deduced from the basis of a factual situation at Y.U. such that the faculty "substantially and pervasively operate the enterprise."[43] Likewise, the Board syllogism that faculty are not "expected to conform to management's policies" is, in reality, premised on the fact that "the faculty is the school."[44]

In point of fact, it is a tortured construction of the Act to suggest, as the Board does, that individuals with admitted authority to determine such matters as how the employer-university operates (by virtue of the faculty's recognized authority in regard to policy-making and "university decision making"); what the university's operations are to consist of (by virtue of their authority regarding curriculum and admissions); who is to operate the entity (by virtue of their authority over faculty hiring and tenure); and under what terms and conditions of employment (by virtue of their authority over salary and promotion of faculty), are not acting in the interest of the university as employer. *NLRB* v. *Yeshiva University,*

---

[42] *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc., supra* at 273. *See* Brief for Petitioner NLRB at 23, 32.

[43] *NLRB* v. *Yeshiva University, supra* at 698. *See* Brief for Petitioner NLRB at 23.

[44] *NLRB* v. *Yeshiva University, supra,* at 700, quoting testimony in the repesentation proceeding at *Yeshiva University,* 2-RC-16662. App. at 379. *See* Brief for Petitioner NLRB at 32.

supra at 698. Were the same doctrine to be applied in an industrial context, it would yield the absurd result of denying the applicability of the managerial exclusion to every company's chief executive officers, its president and its board of directors since in an industrial context it is they who have primary responsibility for establishing the policies they are involved in "effectuating." Their authority, therefore, could also be dismissed as being exercised in their own interest, rather than in a "separate" employer interest.

Moreover, the Board's "interest" doctrine is at odds with established case law. Thus, in its *Textron* decision, the Court struck down a Board limitation of the Act's managerial exclusion only to those "so closely related to or aligned with management as to place the employee in a position of conflict of interest between his employer on one hand and his fellow workers on the other." *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc., supra* at 273. Rather, the Court fully endorsed the Circuit Court's approach of recognizing the statutory exclusion of additional managerial personnel including those not "so closely related to or aligned with management" but nevertheless involved in "formulating, determining and effectuating his employer's policies or his discretion, *independent of an employer's established policy,* in the performance of his duties." *Id.* (citation omitted and emphasis added). Yet, with regard to faculty involved in "formulating, determining and effectuating" their employer-university's policies, the Board would again limit the managerial exclusion only to those with "a close identification and alliance with management."[45]

Even if the Board were statutorily empowered to arrive at novel legal interpolations of the Act, such a doctrine as here developed by the Board would necessarily fail on a factual basis at a "mature institution" such as Y.U.

[45] Brief for Petitioner NLRB at 28.

Thus, the Board's doctrine is entirely based on the presumption that the interest of the faculty and the interest of the University are necessarily divergent; yet, as the court below noted, there was not the slighest basis cited in the lengthy record of the *Yeshiva University* case for that presumption. *NLRB* v. *Yeshiva University, supra* at 700. Rather, the evidence established that, at an institution such as Y.U., "the interests of the faculty and the interests of the University were almost always co-extensive." *Id.* For the Board's doctrine that faculty are not acting in the interest of the employer to be meaningful, the interest of what in industry is referred to as the management or administration, must be clearly separate from and different than the interests of what would be referred to as the entity's laborers. In a "mature" university, however, the administration and the faculty are recognized as being united in a "joint enterprise" with the faculty and the administration of the entity exercising "joint authority".[46] In fact, the Board's Brief admits that in another regard "faculty members and administration *jointly participate* in the running of the educational entity" under a system of "shared authority."[47] Surely, to "dichotimize those interests" is, as the Court of Appeals suggested, "a strained, artificial separation." *NLRB* v. *Yeshiva, supra* at 701.

What the Board could not previously fathom, and now chooses to misconstrue, was recognized years ago by Justice Cardozo, namely that a university really consists of "a

[46] *See* Statement on Government of Colleges and Universities, 52 A.A.U.P. Bull. 375 (1966), cited in *NLRB* v. *Yeshiva University,* 582 F.2d at 701.

[47] Brief for Petitioner NLRB at 37 (emphasis added). The statement in the Board's Brief is the first known acceptance by the Board of the existence of such "shared authority" at "mature" universities.

company of scholars". *Hamburger* v. *Cornell University*, 240 N.Y. 328, 336-37 (1925). For the Board to distinguish between the interests of the scholars and the interests of the educational entity is meaningless and therefore factually, as well as legally, invalid.

(2) The Board's doctrine that the Act gives the Board the right to include professional employees with managerial and supervisory authority is erroneous as a matter of law.

The Board's approach in its *Yeshiva University* decision was to note that faculty are "professionals" within the meaning of §2(12) of the Act,[48] and to suggest, as a legal principle, that where "professionals" are involved, the Board had the statutory right to deny exclusion despite recognized managerial and supervisory authority.[49]

While no one takes issue with the Board's definition of faculty as "professionals" under the Act, what is at issue is the Board's legal interpretation of the Act to the effect that "professionals", even when "vested with significant managerial or supervisory responsibility", need not be excluded.[50] As the Board would have it, in such situations the Board "may" exclude, but is not statutorially required to do so.[51] It might be noted, however, that the statute does not limit, and has never before been

[48] 29 U.S.C. §152 (12).

[49] Brief for Petitioner NLRB at 31-32.

[50] *Id.* at 31.

[51] *Id.* at 31-32 n. 26.

interpreted in any court to limit the mandatory nature of the managerial and supervisory exclusion to non-professionals. The Board's basis for its apparently newly discovered legal principle is, in total, three recent *Board* decisions.[52]

Yet, the citation of recent Board cases as the sole basis for such a statutory principle amounts to little more than a "bootstrap" type of justification, particularly where the principle is at variance with the wording of the statute and all previous case law. It should be added that the Board decisions cited involved only individuals who were in no sense comparable to faculty involved in institutional policy-making and determination of important "terms and conditions of employment" of their colleagues.[53]

Moreover, underlying the Board's view of its statutory authority is once again the Board's premise that it can limit the exclusion of professionals who possess managerial and supervisory authority to only those professionals who, as potential members of a collective bargain-

[52] *Id.* citing *Presbyterian Medical Center*, 218 NLRB 1266, 89 LRRM 1752 (1975); *General Dynamics Corp.*, 213 NLRB 851, 87 LRRM 1705 (1974); *University of Chicago*, 205 NLRB 220, 83 LRRM 1678 (1973), *enforced* 506 F. 2d 1402 (7th Cir. 1974).

[53] In *Presbyterian, supra*, the Board was dealing with registered nurses who rotated on occasion as team leaders but who had no responsibilities other than "coordinating". In fact, in that same case, the Board found that a professional who "effectively recommends" any terms and conditions of employment was excluded (re: head nurses). 89 LRRM at 1755. In *General Dynamics, supra*, the Board denied the exclusion to engineers involved in "technical decisions which are not discretionary." 87 LRRM at 1715. And, in *University of Chicago*, the Board in fact found all professionals with supervisory authority to fall within Section 2(12) of the Act, 29 U.S.C. §152(12). 83 LRRM at 1681.

ing unit, would have a "divided loyalty if subjected to unionization."[54] (Brief for Petitioner NLRB at 32.)

It should also be noted that while "professionals" in industry who possess managerial or supervisory authority are regularly excluded by the Board, in a university such as Y.U., faculty have substantially greater authority.[55] As the Second Circuit noted (at 698):

> "However, the issue as we perceive it in this case involves not simply the professor's exercise of discretion in conducting the courses he is employed to teach. Rather, the issue here is the extensive control of Yeshiva's faculty over what courses are taught in the institution, who teaches them, the number of teaching hours required of the faculty, and the rank, salary, and tenure status of other faculty members. We are further concerned by the crucial role of the full-time faculty in determining other central policies of the institution including, *inter alia*, the curriculum, admissions and graduation requirements, tuition, and in one instance, even the situs of a school. When faculty members have such power—as the record indicates they do at Yeshiva—they no longer are simply exercising individual professional expertise. They are, in effect, substantially and pervasively operating the enterprise."

---

[54] The Board's Brief suggests that "the touchstone for managerial status is a close identification and alliance with management . . ." Brief for Petitioner NLRB at 28 (citing two Board decisions and a Circuit decision prior to *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc.*). No mention is made that in *Textron*, this Court rejected a limitation of the managerial exclusion only to those "so closely related to or aligned with management as to place the employee in a position of conflict of interest . . ." *Textron, supra* at 273.

[55] *NLRB* v. *Yeshiva University, supra* at 698 (citing Kahn, *supra* at 68).

(3) The Board's doctrine that faculty authority can be dismissed because it is theoretically subject to the ultimate authority of the University's Board of Trustees is contrary to the express provisions of the Act and factually invalid.

The Board's third doctrine for faculty would disregard conceded managerial and supervisory authority because such authority is theoretically subject to the ultimate authority of the University Board of Trustees.[56]

In the first instance, this doctrine is in direct conflict with §2(11) of the Act, 29 U.S.C. §152(11), which mandates exclusion for individuals who "effectively recommend", not merely those who pass on the recommendations. As the Second Circuit observed: "Obviously . . . the section contemplates a review by some higher authority." *NLRB* v. *Yeshiva University, supra* at 701-02.[57]

Aside from its legal incapacities, however, the Board's "ultimate authority" doctrine is entirely unrealistic. Even in an industrial context, as the Court noted, such a limitation would eliminate the Act's supervisory and managerial exclusions; in fact, the Board has routinely acknowledged, in industrial cases, the supervisory and managerial status of various officers and employees despite the fact that all corporate personnel are subject to the "ultimate authority"

---

[56] Brief for Petitioner NLRB at 37.

[57] The Court also pointed out that a long line of judicial decisions have made clear that authority "subject to review by those others who, in fact, have the final power" nonetheless requires supervisory exclusion under the Act. 582 F.2d at 702 (*citing NLRB* v. *Metropolitan Life Ins. Co.*, 405 F.2d 1169, 1177 (2d Cir. 1968)). *See also Eastern Greyhound Lines* v. *NLRB*, 337 F.2d 84, 86 (6th Cir. 1964); *NLRB* v. *Gary Aircraft Corp.*, 368 F.2d 233 (5th Cir. 1966); *NLRB* v. *Southern Airways Co.*, 290 F.2d 519 (5th Cir. 1961).

of every corporation's Board of Directors. *Id.* at 701. Moreover, as the Court observed, at a university such as Y.U., the fact was that the Board of Trustees regularly gave its routine endorsement to the faculty's recommendations.[58]

(4). The Board's previous doctrine that faculty authority can be dismissed because it is generally exercised on a collective basis is contrary to Board and Court decisions.

The Board's concept of disregarding faculty authority because it is generally collectively exercised, which was the primary doctrine originally relied upon by the Board in its faculty representation decision,[59] appears to have been quietly abandoned by the Board and by YUFA. *Amici* such as the AAUP firmly disavow the doctrine on which the Board primarily relied in all its faculty representation decisions.

> We do not, of course, contend that 'managerial' status depends on unilateral decision-making authority, or that participation in management decision-making may not result in such status. To be sure, corporate executives, and other plainly 'managerial' personnel, do not always possess such unilateral authority. Management decisions are increasingly made by groups of people each of whom is simply a participant in the process. (AAUP Brief at 13)

Inasmuch as the petitioners have apparently deferred to the Second Circuit's invalidation of this previously key Board doctrine, no further discussion appears appropriate beyond a reference to the relevant portion of the Court of Appeals opinion, *NLRB* v. *Yeshiva Uviversity,* 582 F.2d at 698-700, which lists Board as well as Court decisions excluding individuals whose authority was also exercised only collectively.[60]

---

[58] *NLRB* v. *Yeshiva University, supra* at 702.

[59] *C.W. Post Center, supra* at 905.

[60] Citing *Florida Southern College,* 196 NLRB 888, 889 (1972); *Western Saw Manufacturers Inc.,* 155 NLRB 1323, 1329 n.11 (1965); *NLRB* v. *Bell Aerospace Co., Div. of Textron, Inc., supra* at 270.

CONCLUSION

For the reasons stated herein the petitions should be denied and the decision of the Court of Appeals for the Second Circuit should be affirmed in all respects.

Respectfully submitted,

WINER, NEUBURGER & SIVE
425 Park Avenue
New York, N.Y. 10022

Attorneys for:
The Johns Hopkins University
New York University
Northeastern University
The George Washington University

Amici Curiae

Of Counsel:

DANIEL RIESEL
DAVID SIVE
MARK A. CHERTOK
ESTELE A. FISHBEIN
RICHARD SEMERARO
JEROME MEDALIE
FRED VINSON

MOTION FILED
JUL 16 1979

IN THE

Supreme Court of the United States

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD,
Petitioner,
v.
YESHIVA UNIVERSITY.

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioner,
v.
YESHIVA UNIVERSITY.

On A Writ of Certiorari to the United States Court of Appeals for the Second Circuit

MOTION TO SUBMIT BRIEF AS *AMICUS CURIAE* AND BRIEF *AMICUS CURIAE* OF THE NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

KENNETH C. MCGUINESS
ROBERT E. WILLIAMS
DANIEL R. LEVINSON
MCGUINESS & WILLIAMS
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
202-296-0333

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

TABLE OF CONTENTS

	Page
MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*	1
INTEREST OF THE *AMICUS CURIAE*	6
STATEMENT OF THE CASE	6
SUMMARY OF ARGUMENT	7
ARGUMENT	12
I. IF NLRA PRINCIPLES ARE TO BE APPLIED AT ALL, FACULTY MEMBERS AT MATURE UNIVERSITIES MUST BE CONSIDERED "MANAGERIAL PERSONNEL" AND THUS EXCLUDED FROM THE ACT'S COVERAGE	12
II. THE BOARD'S APPLICATION OF NLRA PRINCIPLES TO THE SYSTEM OF SELF-GOVERNANCE BY UNIVERSITY FACULTY VIOLATES BOTH THE INTENT AND THE DESIGN OF THE STATUTE	19
III. IN THE ABSENCE OF A CLEAR EXPRESSION OF CONGRESSIONAL INTENT TO BRING UNIVERSITY FACULTY WITHIN THE JURISDICTION OF THE LABOR BOARD, THE NLRA SHOULD NOT BE CONSTRUED IN A MANNER WHICH WOULD REQUIRE THE BOARD AND THE COURTS TO RESOLVE DIFFICULT AND SENSITIVE QUESTIONS ABOUT THE GUARANTEE OF ACADEMIC FREEDOM INHERENT IN THE FIRST AMENDMENT TO THE CONSTITUTION	28
CONCLUSION	32

AUTHORITIES CITED

Cases: Page

Adelphi Univ., 195 NLRB 639 (1972) 14
AFL-CIO, 120 NLRB 969 (1958) 13
Ambach v. *Norwick, et al.*, 42 U.S.L.W. 4387 (U.S. April 17, 1979) 10, 28
Associated Press v. *N.L.R.B.*, 301 U.S. 103 (1937) .. 30
Astronautics Corp., 210 NLRB 652 (1974) 15
Cary v. *Board of Education*, 427 F. Supp. 945 (D. Colo. 1977) 31
Clark v. *Holmes*, 474 F.2d 928 (7th Cir. 1972) 28
Denton's Inc., 83 NLRB 35 (1949) 12
Denver Dry Goods, 74 NLRB 1167 (1947) 12
Eastern Camera & Photo Corp., 140 NLRB 569 (1963) 8, 13
Florida Southern College, 196 NLRB 888 (1972) .. 14
Foley, Hoag & Eliot, 229 NLRB No. 80 (1977) 29
Fordham University, 193 NLRB 134 (1971) 25
General Dynamics Corp., 213 NLRB No. 124 15
Hamburger v. *Cornell Univ.*, 240 N.Y. 328, 148 N.E. 539 (1925) 19, 21
International Brotherhood of Electrical Workers, et al. v. *Foust*, 47 U.S.L.W. 4600 (U.S. May 29, 1979) 31
New York University, 205 NLRB No. 16 (1973) .. 25
N.L.R.B. v. *Allis-Chalmers Mfg. Co.*, 338 U.S. 175 (1967) 29
N.L.R.B. v. *Bell Aerospace Co., Division of Textron, Inc.*, 416 U.S. 267 (1974) ..... *passim*
N.L.R.B. v. *Catholic Bishop of Chicago*, 47 U.S.L.W. 4283 (U.S. March 21, 1979) 7, 11, 21, 29, 30
N.L.R.B. v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975) 19
N.L.R.B. v. *Yeshiva Univ.*, 582 F.2d 686 (2d Cir. 1978) 18
Palace Laundry Dry Cleaning Corp., 75 NLRB 32 (1947) 12
Pickering v. *Bd. of Education*, 391 U.S. 563 (1968) 28
C. W. Post College of Long Island Univ., 189 NLRB 634 (1974) 14

AUTHORITIES CITED—Continued

Page

Retail Clerks Int'l Ass'n v. *N.L.R.B.*, 366 F.2d 624 (D.C. Cir. 1966), *cert. denied*, 386 U.S. 1017 (1967) 13
Sweezy v. *New Hampshire*, 354 U.S. 234 (1957) 28
Syracuse University, 204 NLRB No. 85 (1973) .. 25
Trustees of Columbia University, 97 NLRB 424 (1951) 21
United Faculty of Florida and State University System Board of Regents, and related cases, Case Nos. 8H-RC-755-0006 and 8H-RC-755-0052 (*University of Florida Engineering Ass'n and Engineering Faculty of Florida and State University System Board of Regents*, Slip Dec. (Feb. 4, 1977) 27
University of Miami, 213 NLRB 634 (1974) 14
Vaca v. *Sipes*, 386 U.S. 771 (1967) 31
Wichita Eagle & Beacon Publishing Co. v. *N.L.R.B.*, 480 F.2d 52 (10th Cir. 1973), *cert. denied*, 416 U.S. 982 (1974) 15
Yale & Towne Mfg. Co., 135 NLRB 926 (1962) 15

Statutes:

National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 88 Stat. 395, 21 U.S.C. § 151 *et seq.*) 7
Sec. 2(12) 7
Sec. 8(a)(5) and (1) 7
Sec. 8(d) 22

Legislative Materials:

H.R. Rep. No. 245, 80th Cong., 1st Sess. 1947 12
S. Rep. No. 573, NLRB Legislative History of the NLRA (1953) 21

Miscellaneous:

American Association for Higher Education, Task Force Report, Faculty Participation in Academic Government (1967) 23

AUTHORITIES CITED—Continued

Page

Benewitz, M., "Bargaining in Higher Education," Proceedings of the 27th Annual Conference on Labor, (N.Y.U. 1975) 16, 24
Bodenheimer, E., JURISPRUDENCE (Harvard 1974) (Rev. Ed.) 29
Brown, *Collective Bargaining in Higher Education*, 67 Mich. L. Rev. 1067 (1969) 22
Comment, *Union Waiver of Constitutional Rights: Academic Freedom as a Bargaining Chip in Union Contracts*, 49 U. Colo. L. Rev. 299 (1978).. 31
Note, *Developments in the Law-Academic Freedom*, 81 Harv. L. Rev. 1045 (1968) 30, 32
Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication.* 21 U.C.L.A. L. Rev. 63 (1973) 14, 22, 23, 24
McEwen, "Five Years of Faculty Collective Bargaining," Engineering Education 319 (American Society for Engineering Education, January 1979) 25
McHugh, *Collective Bargaining with Professionals in Higher Education: Problems of Unit Determinations*, 1971 Wis. L. Rev. 55 20
New York Times, "Columbia's Engineering Faculty Agrees to Shelve Reactor Project," April 7, 1979 16
Newell, Jr., Paul H., Proceedings of the Conference and Workshop on Engineering Education and Collective Bargaining (National Society of Professional Engineers, October 26, 1976) 23
Pound, Roscoe, THE LAWYER FROM ANTIQUITY TO MODERN TIMES (West 1953) 26
Truesdale, "The Duty of Fair Representation: Must It Be Effective to be Fair?," 50 Daily Labor Report F-1 (BNA March 13, 1979) 32
WEBSTER'S COLLEGIATE DICTIONARY 956 (Merriam 1973) 16

IN THE

Supreme Court of the United States

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

YESHIVA UNIVERSITY.

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioner,

v.

YESHIVA UNIVERSITY.

On A Writ of Certiorari to the United States Court of Appeals for the Second Circuit

---

MOTION OF THE NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS FOR LEAVE TO SUBMIT A BRIEF AS *AMICUS CURIAE*

To the Honorable, the Chief Justice and the Associate Justices of the United States Supreme Court:

Pursuant to Rule 42(3) of the Rules of this Court, the National Society of Professional Engineers ("NSPE") moves this Court for leave to file the accompanying brief as *Amicus Curiae* supporting the respondent, Yeshiva University, in this case. In support of this motion, the NSPE shows as follows:

1. The NSPE is a non-profit organization composed of over 67,000 members through 53 affiliated state organizations (including the District of Columbia, Puerto Rico and Guam) and approximately 500 local chapters. Its membership includes professional engineers engaged in virtually every specialized branch of engineering practice and activity—in industry, private practice, government, and education. From its inception, the NSPE has sought to bring to the attention of courts, administrative agencies, and appropriate committees of Congress, information and data concerning the impact of federal laws, rules and policies upon the public and upon the engineering profession. Because of its particular interest in maintaining and promoting standards of excellence in engineering education, a division of the NSPE exists devoted to "Professional Engineers in Education."

2. A significant number of NSPE members serve on engineering faculties at institutions of higher learning, including some private colleges and universities where collective bargaining agents have been chosen by the faculty,* and where the National Labor

* Of the approximately 600 campuses where faculty members have chosen to organize, 77 are private institutions. Bargaining has formally been rejected at 41 such institutions. The Chronicle of Higher Education 8 (June 26, 1978).

Relations Board (the "Board") has asserted jurisdiction under the provisions of the National Labor Relations Act, as amended, 29 U.S.C. 151, *et seq.* (61 Stat. 136, 73 Stat. 519, 88 Stat. 395) (the "Labor Act" or "NLRA").

The movant *Amicus*, and many of its members, thus have broad knowledge of the impact of unionization on the academic community in a variety of university and college settings. Because of this knowledge, the *Amicus* is particularly well situated to brief the Court on the practical as well as legal aspects of the issue presented here, namely, whether full-time faculty members at a mature university, such as Yeshiva, enjoy "managerial status" and thus are excluded from coverage under the Labor Act.

3. The written consents of counsel for the petitioner National Labor Relations Board and counsel for the respondent Yeshiva University have been filed with the Clerk of the Court. Counsel for the petitioner Yeshiva University Faculty Association indicated that he would not consent, thereby necessitating this motion.

WHEREFORE, it is respectfuly moved that the NSPE be granted leave to file the accompanying brief *Amicus Curiae* in this case.

Respectfully submitted,

KENNETH C. MCGUINESS
ROBERT E. WILLIAMS
DANIEL R. LEVINSON
MCGUINESS & WILLIAMS
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
202-296-0333

July, 1979

IN THE

Supreme Court of the United States

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

YESHIVA UNIVERSITY.

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioner,

v.

YESHIVA UNIVERSITY.

On A Writ of Certiorari to the United States Court of Appeals for the Second Circuit

---

BRIEF *AMICUS CURIAE* OF THE NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

The National Society of Professional Engineers (NSPE) respectfully submits this brief as *amicus*

curiae, contingent upon the Court's granting of the accompanying motion, pursuant to Rule 42(3) of the Rules of this Court. The NSPE supports the position of the respondent, Yeshiva University, in urging the Court to affirm the decision of the Second Circuit Court of Appeals.

INTEREST OF THE *AMICUS CURIAE*

NSPE's interest in the issues presented for the Court's review in this case is detailed in the accompany motion. (*Supra*, pp. 1-3).

STATEMENT OF THE CASE

The facts of this case are fully set forth in the briefs of the parties and in the opinion of the Second Circuit. For present purposes, they may be summarized as follows:

In 1974, the Yeshiva University Faculty Association (the "Union") filed a representation petition with the National Labor Relations Board seeking certification as the bargaining agent of the full-time faculty members of most of the schools at Yeshiva University (the University). On the basis of facts adduced at a representation hearing, the Board found the full-time faculty members at the University to be professional employees entitled to vote for or against collective bargaining representation. The Board thereupon determined that such faculty members constituted an appropriate bargaining unit, and directed an election in that unit. Thereafter, the Union won the election and was certified by the Board. The University subsequently refused to bargain and contested the validity of the certification. (N.L.R.B. Cert. Pet. 2-14)

Upon charges filed by the Union, the Labor Board found that the University had violated Section 8(a)(5) and (1) of the Act, and issued a bargaining order. The Court of Appeals for the Second Circuit denied enforcement of the Board's order. While the court agreed with the Labor Board that the faculty members are professional employees under Section 2(12), 29 U.S.C. 152(12), it further held that they enjoyed managerial status as well, thus excluding them from coverage under the Act, *N.L.R.B.* v. *Bell Aerospace Co., Division of Textron, Inc.*, 416 U.S. 267 (1974). (N.L.R.B. Cert. Pet. at 42a; Cert. Pet. at 15-16).

SUMMARY OF ARGUMENT

Although the NLRA is drafted broadly to cover a wide range of employment relationships, there are limits to both the types of employees intended to be covered and the types of enterprises to which the Act, without reservation, may legitimately be applied. *See, e.g., N.L.R.B.* v. *Bell Aerospace Co., Division of Textron*, 416 U.S. 267 (1974); *N.L.R.B.* v. *The Catholic Bishop of Chicago*, 47 U.S.L.W. 4283 (U.S. March 21, 1979). The relationship between faculty and administrators at mature universities[1] brings into play both of these limitations.

---

[1] For purposes of this case, mature universities may be characterized, as suggested by the court below, as those institutions that have adopted a collegial decision making process in which the faculty contributes substantially to the development of institutional policy. 582 F.2d at 700.

1. The Court's decision in *Bell Aerospace, supra*, establishes that individuals who serve in a managerial capacity are excluded from the Act's coverage. Further, the opinion in that case makes clear that the Board may not limit the statutory exclusion to managerial personnel associated with the "formulation or implementation of labor relations policies," but rather must apply the exclusion to all those who occupy managerial status within originally developed definitional standards.

The cases cited by the Court in *Bell Aerospace* establish a conception of managerial status defined in terms of the extent to which discretion is exercised. *See, e.g., Eastern Camera & Photo Corp.*, 140 NLRB 569 (1963). If NLRA principles are to be applied at all to collegial academic institutions such as Yeshiva, these cases dictate the conclusion that their full-time faculty members must be considered "managerial personnel." For as the Second Circuit observed, members of Yeshiva's faculty exercise extensive control over the courses taught in the institution, the selection and assignment of teachers, the number of teaching hours required of the faculty, and the rank, salary, and tenure status of other faculty members. These responsibilities establish a degree of discretion at least as substantial as that found sufficient by the Board to exclude managerial employees in the industrial and commercial sphere from the Act's coverage. Indeed, "the crucial role of the full-time faculty in determining other central policies of the institution including, *inter alia*, the curriculum, admissions and graduation requirements, tuition, and in one instance, even the situs of a school" (582 F.2d 692) establishes a degree of discretion far greater

than that normally exercised by most industrial and commercial managerial employees. Thus, the Second Circuit's finding that the faculty at Yeshiva, "in effect substantially and pervasively operate[s] the enterprise" (*id.* at 693) clearly suffices to bring the decision below within the ambit of this Court's *Bell Aerospace* holding.

2. Although the Second Circuit limited its findings to the specific facts of the case before it, the *Amicus* submits that the status and responsibilities of Yeshiva's faculty members with respect to their university are typical of those of faculty members at mature universities generally.[2] Accordingly, we urge this Court to consider a more fundamental reason, not fully addressed by the court below, for excluding university faculty from the NLRA: The relationship between a mature university and its faculty members simply does not fit the model of employer-employee relationships which Congress had in mind when it enacted this statute. This is not to say that the Act can never legitimately be applied to institutions of higher learning. Non-academic personnel and teachers at proprietary schools, for example, may have a relationship with their college administrations that is sufficiently analogous to the commercial and industrial-type employment relationships Congress intended the Act to cover so that NLRA principles may apply without serious difficulty. See *N.L.R.B.* v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975). But

---

[2] The Board apparently agrees, as it has represented in its brief to this Court (Br. 22-23) that the role of Yeshiva's faculty members "is essentially the same as that of faculty members at other universities."

the process of shared and collegial decision-making at a mature university is incompatible with the two-party collective bargaining system envisioned by the Act. University faculty commonly determine the direction and nature of their enterprise, and commit the resources of the university, through such academic organizations as faculty senates. Imposition of the Act's scheme of bargaining between "management" and employee representatives generates inevitable conflicts between academic and labor organizations which make faculty coverage under the Act impractical. Recognition of this problem is reflected in the legislative history of the Act, which indicates that Congress did not intend college faculties to be covered.

3. Finally, in the absence of a clear expression of Congressional intent to bring university faculties within the coverage of the NLRA, the Act should not be construed in a manner which would require the Board and the courts to resolve difficult and sensitive questions about the guarantee of academic freedom inherent in the First Amendment to the Constitution. As the Court recently observed, "a teacher serves as a role model for his students, exerting a subtle but important influence over their perceptions and values." *Ambach* v. *Norwick, et al.*, 42 U.S.L.W. 4387 (U.S. April 17, 1979). It is essential that the guarantee of academic freedom include the right of professional faculty members to educate their students in the principles and practices of a profession without the inhibiting force of split loyalties created by government-sanctioned collective bargaining units. Similarly, union regulation of faculty members' rights and duties would create inevitable conflict with their own self-imposed systems of professional ethics and standards of conduct. Because First Amendment interests are involved, the NLRA should be construed to avoid such conflicts. See *N.L.R.B.* v. *The Catholic Bishop of Chicago*, 47 U.S.L.W. 4283 (U.S. March 21, 1979).

In sum, the majoritarian process inherent in the Act's scheme of collective bargaining necessarily circumscribes individual rights and professional obligations and, therefore, is difficult to reconcile with First Amendment guarantees in the academic context. Potential First Amendment problems are particularly acute, moreover, because the duty of fair representation imposed on unions under the NLRA does not provide an adequate safeguard against such majoritarian infringment of individual faculty members' rights. In order to avoid these latent constitutional conflicts that NLRA regulation of faculty-administration relations entail, this Court should affirm the decision of the court below and declare such relations clearly outside the intended scope and the Labor Act.

ARGUMENT

I. IF NLRA PRINCIPLES ARE TO BE APPLIED AT ALL, FACULTY MEMBERS AT MATURE UNIVERSITIES MUST BE CONSIDERED "MANAGERIAL PERSONNEL" AND THUS EXCLUDED FROM THE ACT'S COVERAGE.

In addition to a number of specific statutory employee exemptions in the Labor Act, including agricultural laborers, supervisors, and independent contractors, the NLRA has consistently been interpreted to exclude managerial personnel from its employee coverage as well. As noted by the Court in *Bell Aerospace*, *supra*, this implied exclusion has unmistakable support in the legislative history of the Taft-Hartley Amendments to the Act, wherein an amendment to exclude confidential employees from the Act was found unnecessary because "most of the people who would qualify as 'confidential employees' are executives and are excluded from the Act in any event." H.R. Rep. No. 245, 80th Cong. 1st Sess. (1947), at 23. Reinforced by the Board's early decisions acknowledging a managerial employee exclusion, *e.g.*, *Denver Dry Goods*, 74 NLRB 1167 (1947); *Palace Laundry Dry Cleaning Corp.*, 75 NLRB 32 (1947); *Denton's Inc.*, 83 NLRB 35 (1949), this Court declared in *Bell Aerospace* that the Board "is not now free" to limit the statutory exclusion to managerial personnel associated with labor relations policies or other confidential matters. Rather, it must apply the exclusion to all those who occupy managerial status within the definitional standards originally developed by the Board in its early decisions, tacitly approved by Congress at the time of the Taft-Hartley Amend-

ments, and confirmed by "consistent construction of the Act for more than two decades." 416 U.S. at 289.[3]

As summarized by Chief Justice (then Circuit Judge) Burger, managerial employees are "those who formulate, determine and effectuate an employer's policies," [*AFL-CIO*, 120 NLRB 969, 973 (1958)], and those who have discretion in the performance of their jobs, but not if the discretion must conform to an employer's established policy, [*Eastern Camera and Photo Corp.*, 140 NLRB 569, 571 (1963)]. *Id.* at 289 n.16, *citing Retail Clerks International Ass'n* v. *N.L.R.B.*, 366 F.2d 642, 645 (D.C. Cir 1966), *cert. denied*, 386 U.S. 1017 (1967). Moreover, as the court below properly observed, those who perform managerial responsibilities need not do so individually, as is arguably the case under the supervisory exclusion,[4] but may do so collectively, as in fact was

---

[3] The *Bell Aerospace* decision involved the question whether respondent's buyers were managerial employees. In a substantial amount of the company's sales, the buyer served as "team chairman" for a group of personnel who made purchasing decisions. 416 U.S. at 210. In ruling that such buyers were managerial employees excludable from the Act, this Court noted that:

> Extension of the Act to cover true 'managerial employees' would indeed be revolutionary, for it would eviscerate the traditional distinction between labor and management. If Congress intended a result so drastic, it is not unreasonable to expect that it would have said so expressly. 416 U.S. at 285 n.13.

[4] The Act defines a supervisor as:

> "Any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in

connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment." 29 U.S.C. § 152(11) (1976)].

The Labor Board has taken the position in this case, as it has in other university bargaining cases, that, read literally, the supervisory exclusion is applicable only to *individuals* who perform supervisory functions, and thus, the "collective authority" of university faculty to hire, fire, reward, discipline, etc. did not qualify as supervisory in nature. *See, e.g., C.W. Post College of Long Island Univ.*, 189 NLRB 634 (1974); *Adelphi Univ.*, 195 NLRB 639 (1972). Accordingly, in some cases, the Board has excluded deans from faculty bargaining units primarily because they exercised individual authority. *C.W. Post College of Long Island Univ., supra; University of Miami*, 213 NLRB 634 (1974). As the court below noted, however, the Board has not applied this dichotomy between individual and collective authority consistently. See *Florida Southern College*, 196 NLRB 888 (1972) (teaching dean excluded from faculty bargaining unit because he sat on a committee which made effective recommendations regarding the hiring and firing of faculty members). Although the court below opined that the Board's interpretation of the supervisory exclusion as encompassing only individuals not only was a questionable construction of the statute, but also was contrary to the modern corporate decision making process of group action, it declined to rule on the issue specifically, finding that the Board's own concept of "managerial employees" excluded from the Act the Yeshiva faculty. Nevertheless, the Board's failure to acknowledge the supervisory role of individual faculty members vis-a-vis nonprofessional employees, has not gone unnoticed:

> . . . the Board's inclusion in a bargaining unit of faculty members who supervise nonprofessional employees throughout the year seems to be a complete departure from established Board precedent. This departure is not supported by the legislative history of section 2(11). Kahn, *The NLRB and Higher Education: The Failure of Policymaking Through Adjudication*, 21 U.C.L.A. L. Rev. 63, 135 (1973).

largely the case in *Bell Aerospace*. Over the years, a large variety of personnel that fit within these contours, including many whose responsibilities do not necessarily include labor relations, have been found to be managerial employees. *See, e.g., Astronautics Corp.*, 210 NLRB 652 (1974); *Hudson Motor Co.*, 55 NLRB 509 (1944) (buyers and others with authority to make financial commitments on behalf of their employers); *Wichita Eagle & Beacon Publishing Co.* v. *N.L.R.B.*, 480 F.2d 52 (10th Cir. 1973), *cert. denied*, 416 U.S. 982 (1974) (editorial writers); *General Dynamics Corp.*, 213 NLRB No. 124; *Yale & Towne Mfg. Co.*, 135 NLRB 926 (1962) (senior engineers).

The Second Circuit's finding that the Yeshiva faculty exercised control over curriculum, teacher assignments, required teaching hours, and the rank, salary, and tenure status of other faculty members, establishes a degree of discretion at least as substantial as that found sufficient to exclude other types of managerial personnel from the Act in the cases cited above. In fact, the discretionary power of the faculty in an institution such as Yeshiva is far greater than that exercised by most managerial employees in the industrial and commercial sector. As the Second Circuit noted, the faculty play a crucial role in determining many central policies of the institution "including . . . in one instance, even the situs of a school." 582 F.2d 690. The court's observation that the faculty "in effect, substantially and pervasively operate[s] the enterprise," *id.* at 691, not only illustrates and underscores the fact that the faculty enjoys managerial prerogatives, but acknowledges, *sub silentio*, the unique relationship that exists between a uni-

versity administration and the faculty who effectively operate the institution.[5]

The government, however, fails to acknowledge that, if NLRA principles are to apply at all, this unique relationship reinforces the managerial status of faculty. Instead, the government argues that "rank and file faculty members" [6] have interests of

[5] "The faculty," it has been said, "by the very nature of the educational process in institutions of higher education, participate in decision-making which in private industry would normally be regarded as a management prerogative." Kahn, *supra* note 4, at 68.

As one example of the managerial function exercised by faculty, the *Amicus* wishes to note that shortly after the nuclear accident at Three Mile Island near Middletown Pa., Dr. William J. McGill, President of Columbia University, went before a meeting of engineering faculty to "request" that they not activate a small nuclear reactor on the Morningside Heights campus. The faculty subsequently declared a moratorium that would forestall activating or dismantling of the reactor. "Columbia's Engineering Faculty Agrees to Shelve Reactor Project," N.Y. Times, p. 38, col. 5-6, April 7, 1979. This relatively dramatic example illustrates the general principle that, "to a greater or lesser degree, there is a joint sharing of decision-making on campus which almost never exists in the entities with which the NLRB normally deals." M. Benewitz, "Bargaining in Higher Education," Proceedings of the 27th Annual Conference on Labor 43, 49 (N.Y.U. 1975).

[6] The government's repeated use of this term throughout its brief, of course, assumes the very issue in question. "Rank and file" by definition relates to a group which excludes leaders or officers. See WEBSTER'S COLLEGIATE DICTIONARY 956 (Merriam 1973). Due to the collegial decision-making nature of the mature university, however, no leaders or officers direct faculty members in either the formulation or implementation of the educational process.

their own, in terms of "obtaining pay raises and benefits which a board of trustees may resist;" thus, they lose managerial status under the Act. (N.L.R.B. Brief at 24; Cert. Pet. at 23-24). The question of managerial status, however, should be addressed in terms of the nature of the duties and the responsibilities of a particular job, not in terms of a "self-interest analysis." For had such an analysis been applied in *Bell Aerospace*, *supra*, the respondent's buyers similarly would not have qualified as managerial personnel once it was shown that they had an interest in obtaining pay raises and benefits which the board of directors may resist. Indeed, under such a rationale, it is difficult to imagine anyone in the employ of another qualifying as a managerial employee, since the self-interest of employer and employee rarely, if ever, are precisely the same.

Even if the "interest of the employer" doctrine were a valid approach, moreover, the government's argument would fail in this case because the court below found on this record that the interests of the faculty and those of the university were, in large part, coextensive.[7] Although the court analyzed interests on a functional basis only [as discussed *supra*], there is substantial evidence available that even the economic interests of faculty and university are intertwined to a degree far greater than in industry. Thus, in industry, employees, including managers, obtain salary increases normally as a result

[7] "Whatever the situation may be in other institutions, the record here establishes no significant divergence between the interests of the faculty and those of the administration or the Board of Trustees." 582 F.2d at 701.

of increased profits enjoyed by their employer. Even where profits do not rise, however, employees may enjoy salary increases where market forces and labor pressure compel employers to reduce profit margins. In the nonprofit, university setting, however, the economic interests of professor and university are far more interdependent. As formulators of policy on such matters, *inter alia*, as tuition levels and faculty salaries, faculty members often have a level of influence in the economic life of a college unparallel to the influence of many managers in industry. Not only does this participation in economic decision-making distort any contrived adversarial posture between professor and administrator, but in fact should serve [and often does] to encourage cooperation in the effort to protect the economic viability of such institutions.[8]

In sum, to the extent that principles derived from the NLRA may be applied to the relationship between administrator and university faculty at mature institutions where decision-making is shared,[9] the fac-

[8] In this respect, the negative economic impact of formal bargaining on the entire academic community should be noted. The cost of staff administrators for contract enforcement, legal representation and arbitration fees are not inconsequential. Indeed, "[f]or institutions which already have real economic problems, this is not a minor negative impact." Benewitz, *supra* 5, at 66.

[9] The qualification that faculty enjoy managerial prerogatives to qualify for their exclusion eliminates both non-academic personnel, and academic personnel at proprietary schools where their relationship to the university is comparable to that of an employee in a commercial setting. *Cf.*, *N.L.R.B.* v. *Yeshiva Univ.*, 582 F.2d 686, 702 (2d Cir. 1978) ("Of course it may well be that at other institutions the

ulty clearly serve a managerial function, and properly should be classified as managerial employees and so excluded from the Act's coverage. On the other hand, to the extent that application of traditional definitions of "managerial personnel" to faculty in higher education fails to fit neatly within the hierarchical decision-making structure contemplated by the statute, it is clear that, as illustrated below, the NLRA was not designed to encompass such a relationship, thus rendering inappropriate the assertion of jurisdiction by the NLRB.

II. THE BOARD'S APPLICATION OF NLRA PRINCIPLES TO THE SYSTEM OF SELF-GOVERNANCE BY UNIVERSITY FACULTY VIOLATES BOTH THE INTENT AND THE DESIGN OF THE STATUTE.

As well illustrated by the case before the Court, at mature, collegially-oriented institutions, faculty members exert a pervasive influence over the affairs of their institutions. Thus, faculty commonly sit on committees that play a significant role in the search

Board of Trustees have in fact regularly reviewed and rejected faculty recommendations, but this is not the case at Yeshiva"); *N.L.R.B.* v. *Wentworth Institute*, 515 F.2d 550 (1st Cir. 1975). The fact that university faculty generally enjoy such authority, however, and that this removes them from the status of employees, has perhaps best been expressed by Justice Cardozo:

> "The governing body of a university makes no attempt to control its professors and instructors as if they were its servants. By practice and tradition, the members of the faculty are masters and not servants . . . They have the independence appropriate to a company of scholars." *Hamburger* v. *Cornell Univ.*, 240 N.Y. 328, 336, 148 N.E. 539, 541 (1925).

for university officers, such as presidents and deans, as well as department chairman. Faculty more typically enjoy substantial influence over hiring and promotion matters. This is particularly the case with respect to professional faculty. One commentator has observed that "the governance mechanisms within universities and the so-called managerial function of governing boards have by in large been harmonized with the professionalistic traditions of the medieval university." McHugh, *Collective Bargaining with Professionals in Higher Education: Problems of Unit Determinations*, 1971 Wis. L. Rev. 55, 69. Those traditions, as the author indicates, resulted in medieval universities being governed by their faculties, with "teachers uniting into a corporate body enjoying, more or less, privilege." *Id.* at 65. "With respect to faculty," therefore, "certain traditional management-employee concepts simply do not pertain." *Id.* at 70.

Congress acknowledged the unique setting of the academic environment and its incompatability with NLRA principles during consideration of the Wagner Act. In defining a "labor dispute" under the Act, a Senate Report stated:

> The term "labor dispute" includes cases where the disputants do not stand in the proximate relation of employer and employee. An identical provision is contained in section 13(c) of the Norris-LaGuardia Act (U.S.C., title 29, secs. 101-115), and in most recent labor legislation dealing with disputes. *This definition does not mean that the Government could intervene in a "dispute" between an employer and, let us say, a critical college professor;* for jurisdiction under

> this bill depends upon the charge of an unfair labor practice affecting commerce, and *there could be no such practice involving the employer and the college professor.* S. Rep. No. 573, NLRB, Legislative History of the NLRA, at 2307 (1935).[10] [Emphasis added.]

Although the Board initially ruled that universities were not covered by the Act, *Trustees of Columbia University*, 97 NLRB 424 (1951), it subsequently reversed itself, relatively recently, in *Cornell University*, 138 NLRB No. 41 (1970).[11] Because the provisions of the Act assume the primacy of the trade union model and are not tailored to apply to the unique labor relations structure of academia, how-

---

[10] This passage from the Wagner Act's legislative history was cited by this Court in support of its decision that teachers in church-operated schools are outside the jurisdiction of the Act. *N.L.R.B.* v. *The Catholic Bishop of Chicago*, 47 U.S.L.W. at 4287. It is manifest, however, that the language cited unequivocally indicates that Congress did not intend to include within the Act's coverage any "college professor," irrespective of an institution's religious affiliation.

[11] In the *Columbia University* case, the Board, relying upon the legislative history of the charitable hospitals exemption contained in the Taft-Hartley Amendments, declined to assert jurisdiction over clerical employees of the University Library. When the Board in the *Cornell University* case concluded that Congress has not excluded (other than hospitals) universities from the Act's jurisdiction, it assumed that faculty must be covered under the Act as employees of an employer subject to jurisdiction. No such assumption is warranted, however, and both legislative history and case law (*e.g. N.L.R.B.* v. *Catholic Bishop of Chicago, supra*) indicate that limitations on employee coverage within an enterprise or institution are permissible and, in this case, affirmatively mandated.

ever, a host of insoluble problems detrimental to both faculty and administration have accompanied the Board's assertion of jurisdiction, among them, an emphasis upon economic considerations to the detriment of academic matters; the inevitable waning of the shared authority concept; the interference with, and potential destruction of, faculty senates; difficulties in defining bargaining units; and the conflicts created between the demands of the Labor Act and the obligation imposed upon professional faculty by their own professional associations.

Commentators have observed that faculty unionization in higher education "generally results in the transformation of academic policy to employment conditions." Brown, *Collective Bargaining in Higher Education*, 67 Mich. L. Rev. 1067, 1075 (1969). *See also* Kahn, *supra* note 4, at 80. The Labor Act requires that employers meet with collective bargaining representatives to negotiate "wages, hours and other terms and conditions of employment." The Act, Section 8(d). As indicated previously, however, the dominion of the university professor transcends these subjects. The Labor Act does not compel the university administration to bargain over the direction of the enterprise, yet faculty often do so. Where an adversarial posture is taken in economic matters, it reasonably can be expected that academic concerns will become "bargaining chips," which faculty no longer will enjoy traditional rights to evaluate on their merits independently and with due deference from university administrators.[12] In sum, the trans-

[12] "Curriculum design has been largely in the province of the faculty so far in higher education. The faculty recommends it through the administration [management] to a board of trustees. [With unionization], a move will develop in boards towards more responsibility for the management to design the product for the management to plan the curricula." Remarks of Paul H. Newell, Jr., P.E., Proceedings of the Conference and Workshop on Engineering Education and Collective Bargaining, p. 27 (National Society of Professional Engineers, October 26, 1976).

formation of economic issues to an area requiring arms length negotiation between administration and faculty will encourage a reduction in the shared authority policy of universities, and thereby have the unintended effect of reducing the powers of the faculty.

The concept of shared governance is perhaps the most distinguishing feature of higher education. Kahn, *supra* note 4, at 69-70. This system of governance, which is completely foreign to the private industrial sector of the economy, *id.* at 74, results not only in faculty having influence in economic issues affecting their institutions, but also on educational and administrative policies, personnel administration, public issues vis-a-vis the institution, and procedures for faculty representation. *Id.* at 80 *citing American Association for Higher Education, Task Force Report, Faculty Participation in Academic Government* (1967). Since many of these areas range far beyond the statutorily mandated subjects for collective bargaining, university administrators may act outside the parameters of the Act to reduce the influence of faculty generally and thus gain an upper hand in economic bargaining. Such a result not only would compromise the viability of the faculty collective bargaining unit, but would undermine existing governance institutions, such as the faculty senates.

Traditionally, the vehicle for exercising shared governance in the university has resided in a "faculty senate" or similar body. The faculty senate often will determine: standards and policies for admission; honorary degrees and awards; grading; policies for minimum residency requirements; university research; computer usage; and academic regulations generally. Where unionization is permitted, the conflicts between the existing governance institutions and the union organization could easily become unmanageable, for many of the above topics present obvious overlaps of scholarly and security interests.[13] Moreover, there is the likelihood that the leadership of the two organizations will differ as well, since senior tenured professionals rarely form the major body of union leaders. "Thus," as one commentator has noted, "even with a single unit on campus, there must be a reallocation of power in faculty units, a division of responsibility in taking action or dealing with the administration, or even a demise . . . of traditional governance in whose place a system of administration action with faculty response through the grievance procedure will arise." Benewitz, *supra* note 5, at 52.[14]

[13] The primary purpose of the faculty senate is to present the faculty's view of how the institution should be operated. Under section 2(5) of the Act, the Labor Board would have little choice but to rule that most faculty senates constitute labor organizations and thus, continued relationships between a faculty senate and administration where a Board-recognized union exists could result in an unfair labor practice charge against the university. Kahn, *supra* note 4, at 150-51.

[14] A decline in the effectiveness and prestige of faculty senates already has occurred at some universities where the faculty has been unionized. At the University of Rhode Island, for example, the faculty was organized by the American Association of University Professors (AAUP) in 1972. Seven years later, a former chairman of the civil engineering department at the university reports that:

> "Prior to AAUP, the faculty senate was a generally respected body and the voice for faculty concern on such matters as salarly and faculty welfare issues, and was the faculty's official means of communicating with the administration. Because many of the these functions have been assumed by AAUP, today the senate's major contribution is the approval of curricular matters. The character and prestige of the senate have changed, and it is now difficult, particularly in the professional schools, to find faculty willing to serve a term on the senate."

McEwen, "Five Years of Faculty Collective Bargaining," ENGINEERING EDUCATION 319, 324 (American Society for Engineering Education, January 1979).

The consequences of unionization may be particularly harsh on a university professional school faculty where the Board determines that such professional group does not comprise a separate appropriate unit. Acknowledging that faculty members in professional schools share a separate community of interest by virtue of their simultaneous membership in the teaching profession and the profession that they teach, the Board has in some instances permitted separate unit representation. *See, e.g., Fordham University*, 193 NLRB 134 (1971); *New York University*, 205 NLRB No. 16 (1973). Although law and medical school faculty generally have been granted, upon petition, separate bargaining status, not all professional schools necessarily meet the eligibility criteria articulated by the Board.[15] Thus, for

[15] See, *e.g., Syracuse University*, 204 NLRB No. 85 (1973); *Fordham University*, 193 NLRB 134 (1971).

example, an engineering school may have in common with a law school a separate administrative entity within the university, separate accreditation standards, little exchange of faculty with the rest of the university, separate licensing requirements, and autonomous control of curricula—all factors deemed by the NLRB as evidence warranting separate unit status—but not have an autonomous operation, different calendar, or a separate governance committee, which also are considered determinative factors by the Board. Yet, the professionalism which engineering educators seek to advance and inculcate in their students is no less than that of law and medical school educators.[16] To the extent that the Board distinguishes among professional school faculties and their right to self-determination on the basis of grounds that exclude some groups of professional faculty, there exists further evidence to illustrate that, as suggested by the legislative history quoted earlier,

[16] The primary purpose of a profession was perhaps best described by Roscoe Pound, former Dean of the Harvard University Law School, as "the pursuit of a learned art in the spirit of a public service. . . ." R. Pound, THE LAWYER FROM ANTIQUITY TO MODERN TIMES, 5 (West. 1953). There has long been acknowledged within the engineering profession a "paramount responsibility" to "protect the health, safety and welfare of the public." Canon 1, Code of Ethics, Engineers Council for Professional Development. No less than other professional faculty members, engineering faculty should not have to accommodate the tenets of their profession to the demands and interests of other faculty members, nor should they have to compromise dearly held principles for the economically-based agenda of a collective bargaining unit.

the Labor Act does not fit relationships that exist within the academic community.[17]

Self-determination for groups of professional faculty is particularly important, because professional societies often establish professional standards and canons of ethics that justify, and indeed necessitate, treatment independent from all other university faculty. Unfortunately, unionization threatens to disperse and dilute this community of interest among a larger, more diverse body composed of all faculty members, and thus jeopardize the viability of professional associations. The end result is that the Labor Act becomes a vehicle for inhibiting academic freedom and freedom of association, a consequence that not only departs from the statutory scheme, but also introduces serious constitutional implications.

[17] In Florida, where 5400 faculty in all two and four year colleges were considered as one unit, the State Labor Relations Board ruled that engineering colleges were not professional and therefore not eligible for separate bargaining status, although the colleges of law and medicine did meet the professional criteria and were eligible. See *United Faculty of Florida* and *State University System Board of Regents, and related cases*, Case Nos. 8H-RC-755-0006 and 8H-RC-755-0052 (*University of Florida Engineering Faculty Ass'n and Engineering Faculty of Florida* and *State University System Board of Regents*), Slip. Dec. at 12-13 (Feb. 4, 1977).

III. IN THE ABSENCE OF A CLEAR EXPRESSION OF CONGRESSIONAL INTENT TO BRING UNIVERSITY FACULTY WITHIN THE JURISDICTION OF THE LABOR BOARD, THE NLRA SHOULD NOT BE CONSTRUED IN A MANNER WHICH WOULD REQUIRE THE BOARD AND THE COURTS TO RESOLVE DIFFICULT AND SENSITIVE QUESTIONS ABOUT THE GUARANTEE OF ACADEMIC FREEDOM INHERENT IN THE FIRST AMENDMENT TO THE CONSTITUTION.

Academic freedom has been variously defined as "the right to teach, inquire, evaluate and study" [*Sweezy* v. *New Hampshire*, 354 U.S. 234, 250 (1957)]; the right to preserve the classroom as a marketplace of ideas [*Clark* v. *Holmes*, 474 F.2d 928, 931 (7th Cir. 1972)]; and the right of academicians to comment as other citizens do on matters of public interest [*Pickering* v. *Bd. of Education*, 391 U.S. 563, 568 (1968)]. As this Court noted recently, "a teacher serves as a role model for his students, exerting a subtle but important influence over their perceptions and values." *Ambach* v. *Norwick, et al., supra*, 47 U.S.L.W. at 4390. In recognition of this truism, and in acknowledgement of the fundamental difference between a commercial enterprise engaged in the production of goods and services and a university founded to promote the free exchange of ideas, it is essential that the guarantee of academic freedom include the right of professional faculty members to choose to educate their students in the principles and practices of a profession without the inhibiting force of split loyalties created by government-sanctioned collective bargaining units.

The potential impact of the NLRA upon associational rights of the faculty is derived as much from

the institutional and legal characteristics of unions as it is from the nature of academic institutions. Because labor unions regulate the rights and duties of union members, often in a minute fashion, they may impose upon their members a considerable body of "autonomic law"—that is nongovernmental "laws" and "rules" essentially similar in character to laws. As this Court indicated in *N.L.R.B.* v. *Allis-Chalmers, Mfg. Co.*, 338 U.S. 175, 180-195 (1967), Congress did not intend to regulate the internal affairs of unions but favored giving labor organizations powers similar to those possessed by legislative bodies. Professional associations such as the *Amicus*, however, as well as churches and other private institutions, have their own bodies of autonomic law, in the form of rules of discipline and professional ethics or controlling principles of conduct. See E. Bodenheimer, JURISPRUDENCE 330-34 (Harvard 1974) (Rev. Ed.). Where a conflict exists between two such "miniature legal systems," it often is possible to resolve them in favor of the national legal policy as embodied in federal statute. *See, e.g., Foley, Hoag & Eliot*, 229 NLRB No. 80 (1977). The presence of First Amendment interests, however, may necessitate a different result.

This Court recently had occasion to address the potential constitutional impact of collective bargaining upon church-related schools. *N.L.R.B.* v. *Catholic Bishop of Chicago*, 47 U.S.L.W. 4283 (U.S. March 21, 1979). The Court concluded that assertion of Board jurisdiction over such schools would raise difficult and sensitive questions arising out of guarantees of the First Amendment Religion Clauses. 47 U.S.L.W. at 4288. In examining the Act's legislative history, moreover, the Court observed that although

Congress gave no consideration to church-related schools, it did express an intent not to cover college professors *generally*. "It is not without significance," this Court declared, "that the Senate Committee on Education and Labor chose a college professor's dispute with the college as an example of employer-employee relations *not* covered by the Act." 470 U.S.L.W at 4387 (emphasis in original) (citation omitted). See note 10 *supra*, and accompanying text.

Of course, the Labor Act's potential impact upon First Amendment protected interests does not automatically preclude assertion of Board jurisdiction, particularly in the commercial sphere. *See, e.g., Associated Press* v. *N.L.R.B.*, 301 U.S. 103 (1937). The interests here involved, however, are analogous to those acknowledged as necessitating such preclusion in *Catholic Bishop, supra*, except that here it is not the institution which warrants protection, but those who operate the institution in the service of its fundamental purposes of education, research, and scholarly discourse. Where the Labor Act may conflict with the First Amendment interest in intellectual integrity asserted by faculty members whose primary obligation is the transmittal to their students of their professional expertise and principles, the statute should be construed to avoid potential constitutional conflict.

The threat posed to academic freedom by collective bargaining is not mere idle speculation. Administrative restraint on academic freedom often is avoided by faculty participation in academic government. See Note, *Developments in the Law-Academic Freedom*, 81 Harv. L. Rev. 1045, 1049 (1968). But restraint on academic freedom imposed from within by faculty bargaining associations is less subject to amelioration.

Indeed, one district court has ruled in a public sector case that a group of five teachers who were attempting to assert their constitutional right of "academic freedom" had waived that right under the terms of a collective bargaining agreement. *Cary* v. *Board of Education*, 427 F. Supp. 945 (D. Colo. 1977). "All of our constitutional rights," opined one commentator, "including academic freedom, are in serious jeopardy if the government is permitted to purchase such waivers under the cover of a union contract." Comment, *Union Waiver of Constitutional Rights: Academic Freedom as a Bargaining Chip in Union Contracts*. 49 U. Colo. L. Rev. 299 (1978). The danger presented is no less in the private sector.

If the Labor Act is applied to faculty, the protection of individual rights of faculty members can be no greater than that enjoyed by other employees under the Labor Act—*i.e.*, the right to be fairly represented, which is neither a constitutional protection, nor, for that matter, a substantial statutory protection. The doctrine of fair representation merely imposes a duty upon unions to represent their members fairly. *Vaca* v. *Sipes*, 386 U.S. 771 (1967), established that a union violates its duty of fair representation only if its conduct is "arbitrary, discriminatory, or in bad faith." *Id.* at 190. This standard, however, places only the most general limits upon union conduct, while greatly extending the consequences of union control.[18] Academic freedom, with

---

[18] *Cf. International Brotherhood of Electrical Workers, et al.* v. *Foust*, 47 U.S.L.W. 4600 (U.S. May 29, 1979) (Railway Labor Act does not permit an employee to recover punitive damages for a union's breach of the duty of fair representation in processing an employee's grievance for wrongful discharge).

its close ties to crucial First Amendment rights, demands greater protection. "The right to assert this highly personal interest in intellectual freedom should not be vested exclusively in a union with virtually unlimited discretion." Note, *Developments in the Law-Academic Freedom*, 81 Harv. L. Rev., *supra*, at 1127.

Accordingly, were the Labor Act applied to university faculty, the concerns involved in preserving freedom of expression would warrant the elevation of the duty of fair representation to constitutional proportions. Yet, the difficulties entailed in monitoring union conduct in accordance with such a rigorous standard should, absent Congressional directive, discourage such a result. *Cf.* Truesdale, "The Duty of Fair Representation: Must it be effective to be fair?", 50 Daily Labor Report F-1 (BNA March 13, 1979). To avoid this dilemma, and still protect the academic freedom of faculty members, the Board should not be permitted to assert jurisdiction.

CONCLUSION

For these reasons, we respectfully urge the Court to reject the contentions of the petitioner and affirm the decision of the Court of Appeals for the Second Circuit.

Respectfully submitted,

KENNETH C. MCGUINESS
ROBERT E. WILLIAMS
DANIEL R. LEVINSON
MCGUINESS & WILLIAMS
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
202-296-0333

July, 1979

MOTION FILED
OCT 5 1979

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

YESHIVA UNIVERSITY

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioner,

v.

YESHIVA UNIVERSITY

On Writs of Certiorari to the United States Court of Appeals for the Second Circuit

---

MOTION BY THE TRUSTEES OF BOSTON UNIVERSITY FOR LEAVE TO FILE A BRIEF *AMICUS CURIAE* IN SUPPORT OF YESHIVA UNIVERSITY AND BRIEF OF THE TRUSTEES OF BOSTON UNIVERSITY AS *AMICUS CURIAE*

Of Counsel:

VEDDER, PRICE, KAUFMAN,
KAMMHOLZ & DAY
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006

STANLEY R. STRAUSS
DIXIE L. ATWATER
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Attorneys for the Trustees of Boston University

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

YESHIVA UNIVERSITY

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioner,

v.

YESHIVA UNIVERSITY

On Writs of Certiorari to the United States Court of Appeals for the Second Circuit

---

MOTION BY THE TRUSTEES OF BOSTON UNIVERSITY FOR LEAVE TO FILE A BRIEF *AMICUS CURIAE* IN SUPPORT OF YESHIVA UNIVERSITY

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The Trustees of Boston University ("Boston University") respectfully move the Court, pursuant to Supreme Court Rule 42(2), for leave to file the accompanying brief *amicus curiae* in support of Respondent Yeshiva University, and urging affirmance of the decision of the United States Court of Appeals for the Second Circuit.[1] In support of this Motion, Boston University states as follows:

1. Boston University is a private, nonprofit educational institution incorporated under the laws of the Commonwealth of Massachusetts, and located in Boston. It is composed of 16 Schools and Colleges having a student enrollment of approximately 20,000. It employs approximately 5,500 employees, of whom approximately 2,200 are instructional personnel.

2. The issue presented in this case is whether the Court of Appeals correctly found that Yeshiva University's full-time faculty members are supervisory and/or managerial personnel, and therefore not "employees," within the meaning of the National Labor Relations Act, as amended, 29 U.S.C. §§ 151 *et seq.* ("the Act"). The Court of Appeals, reversing the National Labor Relations Board, and relying upon the faculty members' exercise of substantial decision-making authority regarding hiring, promotion, tenure, and academic policy, held that Yeshiva's faculty members were supervisors and/or managerial employees. The Court of Appeals thereby disapproved a long line of NLRB decisions holding that full-time faculty members are "employees" entitled to the protections of the Act.

---

[1] *NLRB* v. *Yeshiva University*, 582 F.2d 686 (2d Cir. 1978), *cert. granted*, 99 Sup. Ct. 1212 (1979).

3. The decision in this case will, in all likelihood, have an immediate effect upon Boston University and its faculty members. In No. 78-67, October Term, 1978, Boston University petitioned this Court for a writ of certiorari to the United States Court of Appeals for the First Circuit to review that court's decision in *Trustees of Boston University* v. *N.L.R.B.*, 575 F.2d 301 (1st Cir. 1978). That petition is pending before the Court. In the latter decision, the Court of Appeals enforced a Board order requiring Boston University to bargain with the American Association of University Professors as representative of a unit of full-time faculty members, including department chairmen. Boston University urged before the Court of Appeals, and continues to urge in its pending certiorari petition, that its department chairmen are supervisory and/or managerial employees. Thus, a decision favorable to Yeshiva University in the case before the Court will, almost certainly, necessitate a remand of the Boston University case to the First Circuit; and, even if this Court reverses the *Yeshiva* decision, the rationale enunciated may nevertheless require such a remand.

4. Boston University supports the decision of the Second Circuit in *Yeshiva*. However, it cannot seriously be disputed that the matter of supervisory or managerial status of academic department chairmen raises an "easier" question than that presented in *Yeshiva*. Thus, department chairmen typically exercise supervisory and managerial powers greater than, and different in kind from, those exercised by faculty, as a class, at institutions of higher education. Accordingly, even if the Court concludes —contrary to our assessment of the facts of academic

life and what we consider to be the correct decision of the Second Circuit in the *Yeshiva* case—that full-time faculty members are "employees," the same result would not, and should not, follow for department chairmen. Additionally, we point out that recognition of the supervisory and managerial status of department chairmen would have a relatively minor impact on collective bargaining in higher education.

5. No party or *amicus* herein has presented to the Court a considered statement as to the status of university department chairmen. We respectfully submit that it is appropriate for the Court to be made aware of their status so that its decision in *Yeshiva* will be made with full knowledge of the impact the decision will have on such personnel. We attempt, in the accompanying brief, to thus inform the Court.

6. We have notified the Solicitor General, as well as counsel for Yeshiva University and the Yeshiva University Faculty Association, that this motion and brief *amicus curiae* would be filed with the Court. Copies of this motion and accompanying brief are also being served upon those individuals.

WHEREFORE, Boston University respectfully moves that it be granted leave to file the accompanying brief *amicus curiae.*

Respectfully submitted,

Of Counsel:

VEDDER, PRICE, KAUFMAN,
KAMMHOLZ & DAY
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Dated: October 5, 1979

STANLEY R. STRAUSS
DIXIE L. ATWATER
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Attorneys for the Trustees of Boston University

TABLE OF CONTENTS

	Page
INTEREST OF THE *AMICUS CURIAE*	2
ARGUMENT	5
I. The Board's "Interest of the Employer" Analysis Emasculates the Statutory Exclusion of Supervisors and Contravenes the Congressional Policy Underlying that Exclusion	5
II. The Board Should Not Be Permitted to Include Department Chairmen in Faculty Units at Universities	15
CONCLUSION	17

TABLE OF AUTHORITIES

Cases:	Page
Doctors' Hospital of Modesto, Inc., 183 NLRB 950, 951 (1970), *supplementing* 175 NLRB 354 (1969), *enf'd*, 489 F.2d 772 (9th Cir. 1973)	7, 9
Fordham University, 193 NLRB 134 (1971)	15
Fordham University, 214 NLRB 971 (1974)	15
N.L.R.B. v. *Bell Aerospace Co.*, 416 U.S. 267 (1974)	17
N.L.R.B. v. *Fullerton Publishing Company*, 283 F.2d 545 (9th Cir. 1960)	13
Northeastern University, 218 NLRB 247 (1975)	15
Rosary Hill College, 202 NLRB 1137 (1973)	15
Trustees of Boston University v. *N.L.R.B.*, 575 F.2d 201 (1st Cir. 1978)	2
University of Chicago Library, 205 NLRB 220 (1973), *enf'd*, 90 LRRM 2844 (7th Cir. 1974)	9
University of Detroit, 193 NLRB 566 (1971)	15
Wurster, Bernardi & Emmons, Inc., 192 NLRB 1049 (1971)	7
Yeshiva University, 221 NLRB 1053 (1975), *enf. denied*, 582 F.2d 686 (2d Cir. 1978)	3, 16
Statutes:	
National Labor Relations Act, as amended, 29 U.S.C. §§ 151 *et seq.*	*passim*
Section 2(11), 29 U.S.C. § 152(11)	5
Section 2(12)(b), 29 U.S.C. § 152(12)(b)	8
Miscellaneous:	
S. Rep. No. 93-766, 93d Cong., 2d Sess. (1974)	8

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

YESHIVA UNIVERSITY

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioner,

v.

YESHIVA UNIVERSITY

On Writs of Certiorari to the United States Court of Appeals for the Second Circuit

---

BRIEF OF
THE TRUSTEES OF BOSTON UNIVERSITY
AS *AMICUS CURIAE*

The Trustees of Boston University ("Boston University") respectfully submit this brief *amicus curiae* in support of the position of Yeshiva University, and urging affirmance of the decision of the United States Court of Appeals for the Second Circuit entered on July 31, 1978, and reported at 582 F.2d 686.

INTEREST OF THE *AMICUS CURIAE*

Boston University is a private, nonprofit educational institution incorporated under the laws of the Commonwealth of Massachusetts, and located in Boston. It is composed of 16 Schools and Colleges having a student enrollment of approximately 20,000. It employs approximately 5,500 employees, of whom approximately 2,200 are instructional personnel.

The Court's decision in this case is vitally important to Boston University because of its position in *Trustees of Boston University* v. *N.L.R.B.*, 575 F.2d 301 (1st Cir. 1978), now pending before this Court upon a petition for certiorari, filed on July 11, 1978 (No. 78-67, Oct. Term, 1978). In the latter case, the United States Court of Appeals for the First Circuit enforced an order of the National Labor Relations Board requiring Boston University to bargain with the American Association of University Professors as the representative of a unit of full-time faculty members. Included in the unit are department chairmen. Before the Board, and again before the Court of Appeals, Boston University contended that its department chairmen are supervisory and/or managerial personnel and should be excluded from the bargaining unit. In agreement with the Board, the Court of Appeals rejected the contention, stating,

inter alia, that "the Board was entitled to find that [the chairmen were acting] . . . 'in the interest' of the faculty, not the employer." 575 F.2d at 306. In its pending petition for certiorari, Boston University has urged this Court to review and reverse the ruling of the Court of Appeals with respect to the status of its department chairmen.[1]

The Board's determination regarding the non-supervisory, non-managerial status of department chairmen at Boston University rests upon premises similar to those that led the Board to conclude that neither Yeshiva's faculty as a class nor its department chairmen are supervisory or managerial personnel. In both cases, the Board found the chairmen's status to be derivative from that of the faculty as a class. Thus, in *Yeshiva*,[2] as in *Trustees of Boston University*, the Board rejected a contention that department chairmen should be excluded as supervisory or managerial personnel even if faculty, as a class, were determined to be "employees," finding that the authority of the Yeshiva department chairmen "has been effectively diffused among the department faculty pursuant to the principle of collegiality . . ." and that the chairmen "act primarily as instruments

---

[1] The faculty unit at Boston University, found appropriate by the Board and upheld by the Court of Appeals, excludes the faculty of the Law, Medical, and Graduate Dental Schools. In its pending petition for certiorari, Boston University has also urged the Court to review and reverse, as "arbitrary and irrational," the unit exclusion of faculty at the latter schools.

[2] *Yeshiva University*, 221 NLRB 1053 (1975).

of the faculty . . . [and] . . . therefore stand largely on the same footing as the faculty, from whom they receive their authority." 221 NLRB at 1055, 1056.[3] A similar rationale underlay the Board's determination that the decisions and recommendations of Boston University's department chairmen constitute "collective rather than authoritarian action." (Boston University's petition for certiorari, No. 78-67, Oct. Term, 1978, pp. 94-95.)

Boston University submits this brief *amicus curiae* for two purposes. First, it believes that the rationale underlying the Board's determination that the Yeshiva faculty are not supervisors emasculates the statutory exclusion of supervisors and contravenes the Congressional policy underlying that exclusion. And second, it wishes to apprise the Court of implications of the *Yeshiva* case that might not otherwise be brought to the Court's attention. Thus, the affirmance of the Board's rationale regarding faculty as a class in *Yeshiva* will undoubtedly prompt the Board to continue to extend that rationale, as it did in *Trustees of Boston University*, to force universities to bargain with respect to department chairmen—this, despite the fact that such individuals typically exercise supervisory and managerial powers in addition to, different in kind from, and usually greater than, those exercised by faculty members. In this connection, we respectfully observe that universities

[3] The Second Circuit found it unnecessary to reach the question of the status of department chairmen because of its determination that all faculty members were supervisory or managerial personnel. *N.L.R.B.* v. *Yeshiva University*, *supra*, 582 F.2d at 694 n.8.

in general, and Boston University in particular, have no wish to occupy the unique position of being the only employers in the nation that are forced to bargain with their supervisors.

ARGUMENT

I. The Board's "Interest of the Employer" Analysis Emasculates the Statutory Exclusion of Supervisors and Contravenes the Congressional Policy Underlying that Exclusion.

The Board seeks to justify its determination that Yeshiva's faculty are not supervisors on the ground that the faculty's admittedly effective recommendations regarding faculty personnel matters—i.e., the hiring, promotion, termination, and tenure of other faculty members—are not made "in the interest of the employer." The Board has seized upon this statutory phrase[4] in the face of a record which clearly demonstrates that all the other statutory criteria for supervisory status are met. (Brief for Yeshiva University, pp. 2-26.) The Board, however, has produced neither facts nor theory to support its contention that faculty authority with respect to faculty personnel matters is dissimilar in any relevant respect from that which, in other areas, the Board routinely holds to be indicative of supervisory status.[5]

[4] Section 2(11) of the Act, 29 USC § 152(11), defines "supervisor" as an individual who exercises the authority described therein "in the interest of the employer."

[5] So, too, has the Board failed to offer any persuasive reason why the faculty's decision making powers in other areas of academic policy should not be considered an exercise of man-

The Board's contention that the faculty's authority with respect to faculty personnel matters is exercised in the faculty's own interest, rather than in the interest of the employer, is premised on two asserted grounds: (1) the faculty's recommendations are mere expressions of independent professional judgments concerning what is professionally desirable in areas in which they have interests (Brief for the National Labor Relations Board, pp. 23, 39, 49, 50); and (2) in making such recommendations, the faculty are not "expected to conform to management policies and are [not] judged according to their effectiveness in carrying out those policies" (Bd. Br., p. 32; see also Bd. Br., p. 41 and Bd. Reply Br., pp. 7-8).[6] We submit

---

agerial authority. Thus, the faculty as managers select the "raw materials" (*i.e.*, the students), design the manufacturing process (*i.e.*, the curriculum to develop the educated student), manufacture the product (*i.e.*, deliver lectures and seminars), evaluate the product (*i.e.*, give grades to the student), and, if satisfied, recommend the product (*i.e.*, the student) for sale (*i.e.*, for graduation as a holder of a degree). The faculty serving as management also decide when and whether to offer discounts to customers (*i.e.*, whether or not to award a specific student a scholarship, fellowship, or teaching assistantship) which enable the student to purchase the product (*i.e.*, his education) at a substantially reduced price. There is, in fact, clearly nothing that is done by an ordinary faculty member, much less a department chairman, that is not managerial or administrative in character. This central fact was recognized by the Second Circuit in the *Yeshiva* case when it held that the Board had applied the National Labor Relations Act in a way that it was never intended to be applied.

[6] The Board equivocates in the importance it attaches to the grounds it asserts. Thus, the primary thrust of the argument in the Board's principal brief is the assertion that the faculty's

that these characterizations of faculty authority, even if accurate, would not compel a conclusion that faculty are "employees," rather than supervisors.

A. The Board's "independent professional judgment" rationale is a novel theory which, if accepted by the Court, would essentially preclude professional personnel from being considered supervisors under the Act. To be sure, the Board has long held that a professional's exercise of independent judgment and discretion in responsibly directing and coordinating the work of other employees in the delivery of the professional product is a manifestation of professional status rather than supervisory authority under the Act.[7] But the faculty's role at Yeshiva with

---

recommendations are made to advance vaguely identified professional or personal goals. When pressed, however, by Yeshiva for identification of the nature of the faculty's "own interest" (Yesh. Br., pp. 50-52), the Board evasively responded that the issue was not "whether the faculty acts on personal as opposed to altruistic grounds," but rather, whether they "are required to conform to management policies in rendering their decisions . . ." (Bd. Reply, p. 8 n.6).

[7] *E.g.*, *Wurster, Bernardi & Emmons, Inc.*, 192 NLRB 1049, 1051 (1971) (Although project architects responsibly direct other employees, it is in a professional sense and does not constitute "supervision" under the Act.); *Doctors' Hospital of Modesto, Inc.*, 183 NLRB 950, 951 (1970), *supplementing* 175 NLRB 354 (1969), *enf'd*, 489 F.2d 772 (9th Cir. 1973) ("[T]he Employer's registered nurses are a highly trained group of professionals who normally inform other, lesser skilled, employees as to the work to be performed for patients and insure that such work is done. But, their daily on-the-job duties and authority in this regard are solely a product of their highly developed professional skills and do not, without

respect to other professional personnel, like the faculty's role at Boston University, is not limited to directing professors and others regarding such matters as the most effective teaching methods or the most efficient ways to conduct scholarly research. Rather, the faculty are proceeding in an entirely different area, for they are essentially determining, through their recommendations, which faculty members will be terminated, which will be promoted, and which will be granted tenure.

In the non-university context, the Board has consistently held that a professional's effective recommendation with respect to employee termination, promotion, or changes in employee status is an exercise

---

more, constitute an exercise of supervisory authority in the interest of their Employer.").

We submit that it is the principle of the latter cases that is embodied in Section 2(12)(b) of the Act, 29 U.S.C. § 152 (12)(b), a section cited by the Board (Bd. Br. 22, 33 n.27) to support its contention that a professional may supervise another professional without losing his status as an "employee" under the Act. That section defines as a "professional employee" an individual who has completed prescribed courses of specialized intellectual instruction and study and who is performing related work under the supervision of a "professional person" to qualify himself to become a professional employee.

Moreover, it is certainly this concept of "professional direction" which Congress approved in passing the health care amendments to the Act in 1974. See S. Rep. No. 93-766, 93d Cong., 2d Sess. 6 (1974), wherein the Senate Committee on Labor and Public Welfare approved the Board's policy of declining to apply the definition of "supervisor" to "a health care professional who gives *direction to other employees in the exercise of professional judgment*, which direction is incidental to the professional's treatment of patients . . . ." [Emphasis added.]

of supervisory authority, even if the recommendation is based on the exercise of the "independent professional judgment" of the person making it.[8] We submit that the Board has reached a proper result in such cases, for any other result would obliterate the statutory exclusion of supervisors. Thus, any recommendation that an employee be hired, terminated, promoted, or have his status changed is inherently imbued with "expertise" and "independent judgment" as to the quality of the employee's experience, cre-

---

[8] For example, in *Doctors' Hospital of Modesto, Inc., supra*, 183 NLRB at 951-952, the Board distinguished between relief head nurses whose *direction* of other nursing personnel was found to be merely a part of their professional duties and responsibilities (see n. 7, *supra*) and the floor head nurses whom the Board found to be supervisors. With respect to the floor head nurses, the Board, referring to its earlier decision on the question, stated:

> [W]e found the floor head nurses, *inter alia*, to be supervisors because, *in addition to* performing their professional duties and responsibilities, they also possessed the authority to make effective recommendations which affected the job status and pay of the employees working on their wings. Specifically, the supervisory status of the floor head nurses rests on their authority to effectively recommend pay increases, job transfers, and departmental assignments for both regular and newly hired employees. [Emphasis in original.]

See also, *University of Chicago Library*, 205 NLRB 220 (1973), *enf'd*, 90 LRRM 2844 (7th Cir. 1974), in which the administrative law judge determined that the professionals in question were not supervisors because their significant authority was limited to "professional direction." The Board, however, reversed the administrative law judge, finding indicia of supervisory status, including the authority to evaluate employees and to interview and approve applicants for employment, to be present.

dentials, performance and potential—and this is so whether the recommendation is made by a professional or by a non-professional.

Moreover, the dictates of the Act do not change simply because professionals as a class are assumed to have some type of "professional interests" which they might desire to further. To the extent that university faculty have such professional interests, those interests are undoubtedly little different from those of the university administration [9]—that is, *inter alia*, the maintenance of the institution's reputation for excellence, the delivery of educational products of superior quality, and the recruitment and retention of outstanding and respected faculty members. Faculty members recommend appointments and promotions with a clear view to these interests of the institution. Only one who is utterly cynical could argue or even suppose that the faculty do not take into consideration, in the evaluation of prospective faculty members or faculty members up for promotion and tenure, the needs of the institution and the

[9] The Board itself, to be sure, has never articulated what the "professional interests" of a university faculty are. Moreover, the attempts by the Board (Bd. Br., p. 41 n. 36) and the American Association of University Professors (AAUP Br., pp. 31-33) to differentiate between the interests of the university and faculty are unpersuasive. Both briefs assert that there may be factors—*e.g.*, the need for fiscal restraint—which may influence the university's decision making, but not that of the faculty. This argument overlooks the fact that similar circumstances occur in any business context. For example, it cannot be doubted that there are numerous instances in which a department manager or supervisor in a business corporation recommends certain actions to higher officials only to have his recommendations rejected for financial reasons.

interests of the students—the latter being "customers" in the university context. Thus, faculty members consider the teaching ability of candidates for promotion, and they also consider whether their academic subjects are duplicative and hence redundant in relation to those of other faculty members, whether they are arcane and perhaps expendable, or whether they are of central importance and essential to the intellectual balance of a department or a school. No permanent faculty could assess the merits of candidates for appointment, promotion, or tenure without taking into account these concerns which are clearly identical to the interests of the institutional administration.

The faculty's decisions and recommendations in these respects are no different from similar decisions and recommendations made by any professional in a supervisory or managerial position. The fact that an individual's "professional interests" might (indeed, almost inevitably would) coincide with the interests of the employer to whom he is authorized to render "independent professional judgments" regarding, for example, the termination of other professional personnel, does not operate to convert the authority so exercised into authority exercised in his "own interest." [10] In sum, when a faculty's "independent

[10] For example, the nursing profession undoubtedly has "professional interests" and "professional goals"—*e.g.*, the delivery of superior health care—equally as cognizable as those of university faculty. Those interests and goals can be furthered by ensuring the presence of an excellent nursing staff. Head nurses who evaluate other nurses and recommend termination, promotion, etc., are presumably motivated by professional goals and inevitably must exercise their "'inde-

professional judgments" are in the form of recommendations with respect to faculty personnel matters which are usually followed, it ignores reality to assert that those recommendations do not constitute supervisory action because they are not made "in the interest of the employer."

B. Equally lacking in merit is the Board's assertion that the faculty's authority is not exercised in the interest of the university because, in making their recommendations, the faculty are not expected to conform to "management policies" and are not judged on their effectiveness in carrying out those policies.

The Board does not identify the "management policies" which the faculty are presumably free to ignore.[11] With respect to faculty personnel, however,

---

pendent professional judgment" regarding the employees' performance and potential. The fact that the head nurse's professional goals and interests are the same as those of the hospital, however, does not make the nurse an "employee" merely because his or her personnel recommendations could be characterized as "independent professional judgments" conveyed to management in his or her "own interest."

[11] As pointed out at n. 9, *supra*, the fact that, as asserted by the Board and the AAUP, faculty may make recommendations in disregard of university policies, such as a policy of fiscal restraint, is not determinative of the faculty's supervisory status. Because all departments are bound by the financial constraints of a university's resources, review of the fiscal impact of the faculty's recommendations is to be expected. Indeed, it is unlikely that the faculty would have access to the financial information necessary to determine for themselves that recommendations would be fiscally responsible. In this regard, the faculty are no different from any other supervisor or manager who submits a proposal in the hope that his employer will approve the expenditures he has requested.

a university's one predominant policy is the desire for highly qualified, effective, and well-respected individuals, and it is for fulfillment of that policy that the administration looks to the faculty. There can be little doubt that this quest for excellence is a policy to which the administration expects the faculty to adhere.[12]

C. Nor is there merit in the Board's argument (Bd. Reply Br. 3-4) that the reason for the usual unit exclusion of managerial employees and supervisors—the need to have such personnel accountable solely to management and to avoid sharing their loyalties with a union—is not here present. For the argument ignores the realities of the relationship between a university and its faculty on matters such as faculty appointment, promotion, and tenure.[13] Curi-

---

[12] Boston University is aware of no precedent supporting the Board's present assertion (Bd. Br., pp. 32, 41) that faculty members cannot be supervisors acting in the interest of a university unless they are judged on the basis of the compatibility of their recommendations with administration policies. In support of its assertion, the Board cites only one case, *N.L.R.B.* v. *Fullerton Publishing Company*, 283 F.2d 545 (9th Cir. 1960), and that case is appropriately limited to issues involving the "responsibly direct" provision of the supervisory exclusion. Thus, the court there found that in order to determine whether a newspaper editor "responsibly directed" his reporters rather than merely relaying assignments, it was necessary to determine whether the editor was held answerable for the output of his department.

[13] So, too, does the Board ignore another equally important reason for excluding faculty members from the coverage of the Act. Thus, one, if not the most important, result of faculty coverage under the Act is the protection accorded to them if they strike against the university. However, a right

ously, moreover, both the Board and its supporting *amici* emphasize that a university must rely upon faculty recommendations to enable it to make informed decisions regarding the appointment, promotion, tenure, and termination of faculty. See Bd. Br., p. 38; AAUP Br., pp. 28-29; and Brief *Amicus Curiae* of the American Federation of Teachers (AFL-CIO), p. 7. And it is because of this reliance that conflicting loyalties which might affect those recommendations are no less objectionable in the university context than they would be in an industrial setting.

Thus, the relationship between a university and its faculty is, we submit, precisely the type that merits protection from the "conflicting loyalties" that arise when supervisors are permitted to form unions and bargain collectively with their employers. For in every real sense, the faculty at Yeshiva and at other

---

to strike in a university context confers powers upon faculty which are unique among "employees." When a faculty member goes out on strike, he not only paralyzes the production line (education), but he assaults the customer (the student). For unlike an employer's customers in industry generally, students cannot, during the period of a strike, seek or obtain the product from other suppliers. Moreover, the relationship between students and university faculty gives the latter powers that are unique. Thus, faculty exercise complete control over their students' academic progress in the university. Consequently, when a faculty member on a picket line urges a student not to cross the line, he engages in an act of coercion, because he is capable, as a faculty member, of penalizing the student with a lower grade for having refused to respect the picket line. Contrariwise, the right of "employees" to strike in non-university sectors vests the "employees" with no such concomitant powers.

universities make personnel decisions on behalf of their employers. If those decisions, albeit based on independent professional judgment, are subjected to the pressure of labor organizations and conflicting loyalties, then both the university and the faculty will suffer.

II. The Board Should Not Be Permitted to Include Department Chairmen in Faculty Units at Universities.

An underlying issue in Yeshiva which is not directly before the Court because of the ruling of the court below is the question of the supervisory and/or managerial status of university department chairmen.

As Yeshiva has pointed out (Yesh. Br., pp. 31-33), and as we have sought to emphasize, the Board has fashioned an *ad hoc*, arbitrary body of law that is applicable only to universities and severely distorts well-settled statutory definitions and judicial standards with respect to "supervisors" and "managers." These distortions extend, moreover, beyond the confines of supervisory and managerial determinations affecting only faculty members as a class. In particular, they have resulted in the Board's frequent denial of supervisory status to department chairmen —individuals who often possess and exercise managerial and supervisory authority even more directly than do faculty as a class.[14]

---

[14] For example, chairmen were included in faculty units in *Northeastern University*, 218 NLRB 247 (1975); *Fordham University (II)*, 214 NLRB 971 (1974); *Rosary Hill College*, 202 NLRB 1137, 1139 (1973); *University of Detroit*, 193 NLRB 566 (1971); and *Fordham University (I)*, 193 NLRB 134 (1971).

Thus, for example, despite a record which showed, *inter alia*, that they were empowered effectively to recommend salary increases, reappointment, promotion, and tenure, that they were the principal administrators of their departments, and that they had a significant role in the preparation of departmental budgets, department chairmen at Boston University were found by the Board to be neither supervisors nor managerial employees. (Boston University's petition for certiorari, No. 78-67, Oct. Term, 1978, pp. 94-95.) A like result obtained with respect to Yeshiva's department chairmen, the Board stating (221 NLRB 1053, 1055-56):

> [T]he chairman's authority has been effectively diffused among the department faculty pursuant to the principle of collegiality . . . .
>
> [A]lthough they have certain formal responsibilities with respect to decisions on such matters as appointment, promotion, and tenure, the department chairmen . . . act primarily as instruments of the faculty in these matters. The department chairmen, in these respects, therefore stand largely on the same footing as the faculty, from whom they receive their authority.

As the basis for its decision that the department chairmen at Boston University were not supervisors, the Board stressed that they engaged in "collective rather than authoritarian action" and it similarly found that they were not managerial employees because they had "interests . . . more akin to those of the regular faculty than to those of the administration." (Boston University's petition for certiorari, pp. 94-95.) At Boston University, however, on most questions, the decision to consult, and the degree of

consultation undertaken, is entirely within the discretion of the chairmen, and they are free to ignore the opinions of those consulted. Thus, although some chairmen choose to consult their departmental faculty on a regular basis, others do so only on certain types of questions. Indeed, as Boston University pointed out in its petition for certiorari to the Court (No. 78-67, Oct. Term, 1978, p. 23), this diversity reflects a difference in style not a diminution in authority, and the very fact that a department chairman chooses his own style speaks for his authority. In sum, if the Board remains free to find that such elective consultation dictates a finding of "employee" status, then it also remains free to find, for exactly the same reason, that university deans, vice presidents, and even presidents are also "employees." Obviously, however, any legal test that requires that such individuals be considered "employees" cannot be upheld. *N.L.R.B.* v. *Bell Aerospace Co.*, 416 U.S. 267 (1974).

CONCLUSION

For the foregoing reasons, the judgment of the court below should be affirmed.

Respectfully submitted,

Of Counsel:

VEDDER, PRICE, KAUFMAN,
KAMMHOLZ & DAY
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Dated: October 5, 1979

STANLEY R. STRAUSS
DIXIE L. ATWATER
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Attorneys for the Trustees of Boston University

see

7 8

9 9 7